

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X
4 UNITED STATES OF AMERICA : 08-CR-76
5 -against- : U.S. Courthouse
6 : Brooklyn, New York
7 CHARLES CARNEGLIA
a/k/a CHARLIE CANIG
8 Defendant :
9 : February 17, 2009
10 : 9:00 a.m.
11 - - - - - X

12 BEFORE:

13 HONORABLE JACK B. WEINSTEIN
14 United States District Judge
15 and a Jury

16 APPEARANCES:

17 For the Government: BENTON J. CAMPBELL, ESQUIRE
18 United States Attorney
19 271 Cadman Plaza East
20 Brooklyn, New York 11201
21 BY: ROGER ANSON BURLINGAME
22 EVAN NORRIS
23 MARISA M. SEIFAN
24 Assistant U.S. Attorneys

25 For the Defendant: KELLEY J. SHARKEY
26 Court Street
27 Suite 2805
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29 and
30 CURTIS JORDAN FARBER
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33 New York, New York 10013

34 Court Reporter: RONALD E. TOLKIN, RMR
35 Official Court Reporter
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1 THE COURT: Good morning, everybody. Court Exhibit
2 1 of today's date.

3 MS. SHARKEY: I'm sorry?

4 THE COURT: Court Exhibit 1 of today's date,
5 defendants' memorandum in support of defendant's motion to
6 suppression of documents, June, 20th, 2002.

7 Court Exhibit 2, the government letter of February
8 16th responding.

9 The Court Exhibit 3, today's date, application of
10 the government with respect to testimony on drug use by Kevin
11 McMahon.

12 The Court Exhibits 1 and 2 are very useful. I've to
13 reconsidered the matter and the documents can come in that
14 were seized and were in plain view. And I confirm my decision
15 that they were in plain view. And the contents, both sides
16 and the stapled attachments, come in as evidence.

17 Court Exhibit 3, I'll hear argument from the
18 defendant. I guess the defendant is in opposition?

19 MS. SHARKEY: Judge, we had revisited this -- we
20 visited this once before. I think the Court's prior ruling
21 that it was -- that it was a limited inquiry by the
22 government. We would request that there be no inquiry by the
23 government.

24 THE COURT: I find the government's submission
25 convincing for a number of reasons. It shows that McMahon and

1 the defendant were closely associated. And confirms the
2 testimony that they were both heavily involved in gang
3 activities with others or they wouldn't be using drugs,
4 ultimately, in this way.

5 It shows that the drug prohibition of the gang was
6 not being enforced against this defendant, either because he
7 was too powerful or because the drug inhibition had fallen due
8 to this use.

9 It shows that both the witness and the defendant
10 were part of the drug culture both users and -- sellers and
11 distributors. That they were users, clearly, it's more likely
12 that they would also participate in the drug culture as
13 sellers and distributors.

14 It also shows that they were distributing a variety
15 of drugs; marijuana, cocaine and other drugs. And using them.
16 The fact that they would use the more potent drug supports the
17 charge of marijuana dealing.

18 So for many reasons, this comes in.

19 MS. SHARKEY: Judge, I have another application
20 beyond the Court 1, 2 and three. When last we met there was
21 an issue over the audio tapes from the Title III wire on the
22 witness that's testifying today. You had marked that on
23 Thursday as a Court Exhibit. The defense had indicated that
24 it was their intention to --

25 May I pass it up?

1 THE COURT: Yes.

2 MS. SHARKEY: It was the defense's intention to put
3 in some of the tapes, which -- through Special Agent Haggerty.

4 THE COURT: You passed up Court Exhibit 1 of
5 2/12/09.

6 MS. SHARKEY: And then the government had
7 indicated --

8 THE COURT: And Court Exhibit 2 of the same date.

9 MS. SHARKEY: Yes, Judge. The Court had indicated
10 if the government was going to put them in, you were inclined
11 to allow the defense to put them in through a rule of
12 completeness. The government then withdrew their application
13 to put them in. You had asked if there were any other reasons
14 why the defense would use the tapes.

15 It is my intention today, after reviewing the 3500
16 material on the witness that's going to testify on who the
17 wires were used in his prior case, to authenticate three dates
18 of tapes through Agent Haggerty. My intention may be to use
19 them either to impeach or refresh the witness' recollection.
20 I wanted to bring that out prior to the date.

21 The tapes which were received from the government,
22 the letter from the government concerning the discovery is
23 December 10th, 2008. The exhibits are Exhibit 502, which is
24 the phone call five 100 on May 12th; 506, which are phone
25 calls from May 14th; and 508, which are phone calls from May

1 15th. Certainly I wouldn't be using them the through Special
2 Agent Haggerty. I'd like them authenticated for refreshing
3 recollection or impeachment of this witness during his
4 cross-examination.

5 MR. BURLINGAME: Judge, for those purposes the audio
6 tapes will not be played in front of the jury. So I don't see
7 any reason that we have to authenticate the tapes. The
8 defense counsel is going to use them for the purpose of
9 refreshing recollection, they can come up with a transcript to
10 refresh his recollection. I don't see any way that the tapes
11 themselves would come into evidence. So I don't see a need to
12 put them in through that.

13 We would be willing to -- if they can come up with
14 an accurate transcript to use to refresh his recollection, we
15 would be willing to stipulate to the authenticity of the
16 tapes.

17 MS. SHARKEY: Well, I think, actually,
18 evidentiary-wise, it's been said that you can refresh a
19 witness' recollection with a hamburger.

20 THE COURT: That's true.

21 MS. SHARKEY: So I think however the defense
22 seeks -- I mean maybe we'll be lucky and this guy will --

23 THE COURT: Excuse me. I'm not sure that I
24 understand exactly the point that's being addressed. We have
25 a witness on the stand. We have transcripts of statements by

1 this defendant when he was in prison?

2 MR. BURLINGAME: No. There was a wiretap. There
3 was an investigation of the defendant.

4 THE COURT: Where was the wiretap, on his home?

5 MR. BURLINGAME: It was on three phones, one of
6 which was the cooperating witness'.

7 THE COURT: Who's on the other end? He's making
8 statements on the tape, the cooperating witness?

9 MR. BURLINGAME: He's captured on a number of phone
10 calls, yes.

11 MS. SHARKEY: These are his voices -- his voice.

12 THE COURT: So he can certainly authenticate the
13 tapes from the -- from knowing his own voice. And since he's
14 a participant in the tape, the tape is perfectly lawful. Even
15 if you do have other reasons for making it lawful, like a
16 warrant, right? So the tape is lawful. It's authenticated.

17 Now, how are you using it?

18 MS. SHARKEY: It would be --

19 THE COURT: The government is not going to use it,
20 they tell me. How are you proposing to use it?

21 MS. SHARKEY: I may use it to either refresh his
22 recollection on certain factors or to impeach his direct
23 testimony.

24 THE COURT: As a prior inconsistent statement or
25 what?

1 MS. SHARKEY: Yes, Judge.

2 THE COURT: I see no reason. You can use it any way
3 you want.

4 MR. BURLINGAME: Judge, our objection would be that
5 you can impeach him with the statement, but that doesn't --
6 it's not in evidence and can't be published to the jury.

7 THE COURT: Why not?

8 MR. BURLINGAME: Well, typically, it's -- for
9 refreshing recollection, they have to be able to show him the
10 document before it goes to the jury so that he can see if his
11 recollection is refreshed. If it's not --

12 THE COURT: It's not coming in for refreshment.
13 It's coming in for all purposes.

14 MR. BURLINGAME: Well, how would it come in?

15 THE COURT: Is this witness conversing with this
16 defendant?

17 MS. SHARKEY: McMahon is the witness, Judge. She's
18 the cooperating witness.

19 THE COURT: And he's conversing on the tapes with
20 who?

21 MS. SHARKEY: On one tape he's conversing with other
22 coconspirators. Let me bring it back, I'm not being
23 articulate. Mr. Carneglia was a codefendant with Kevin
24 McMahon and others on a prior indictment in the Eastern
25 District, which Special Agent Haggerty was assigned to.

1 THE COURT: Yes.

2 MS. SHARKEY: Special Agent Haggerty had a wire on
3 McMahon's phone, and other defendants' phones. Not the
4 defendant's phone.

5 THE COURT: Yes.

6 MS. SHARKEY: There are three days of tapes, but
7 only a couple of conversations from those three days that the
8 defense intends, if the witness gives different testimony
9 during the course of the trial or does not remember, that the
10 defense would either do one of two things. Use the --
11 McMahon's own words, his own voice, captured on the Title III
12 wire to impeach him or to refresh his recollection.

13 THE COURT: Who was he talking to on these tapes?

14 MS. SHARKEY: On these tapes he's talking to -- one
15 tape he's talking to a codefendant on that indictment, who is
16 also -- was convicted as being part of the enterprise.
17 Actually, on both tapes he's talking to a codefendant. His
18 name has been mentioned during the course of this trial by
19 government witnesses but is not scheduled to testify.

20 THE COURT: What are they saying to each other?

21 MS. SHARKEY: Well, it depends on the day, Judge.
22 The dates that I have identified, the -- McMahon is talking
23 about his relationship with Mr. Carneglia. The government has
24 provided the Court with letters about the long standing
25 relationship.

1 THE COURT: Excuse me. Don't deviate. Just tell me
2 what the facts are and I'll decide.

3 MS. SHARKEY: Which part do you want me to tell you?

4 THE COURT: I want to know who the people were
5 talking to and what they were saying to each other and what
6 the relevance would be to the case, aside from credibility.

7 MS. SHARKEY: Okay. McMahon is talking to an
8 indicted codefendant on the previous case. McMahon is talking
9 to the codefendant about his relationship with Charles
10 Carneglia.

11 THE COURT: Why would that be relevant?

12 MS. SHARKEY: Because the government is
13 characterizing the relationship, on their direct case, as one
14 of subservant.

15 THE COURT: What does he say on the tape?

16 MS. SHARKEY: He says that he's been babysitting the
17 defendant for the last 11 years.

18 THE COURT: I'll allow that.

19 MR. BURLINGAME: Judge --

20 THE COURT: I think that it comes in on credibility,
21 but it's the kind of thing that the jury will give no credence
22 to at all, because McMahon has already been fairly well
23 typified as a blow hard.

24 MR. BURLINGAME: Judge, respectfully --

25 THE COURT: It is so inconsistent with the

1 relationship of the witness to the defendant, who is clearly
2 the dominant person. I see no reason for not allowing it to
3 come in on credibility.

4 MR. BURLINGAME: Judge, if I can just respond?

5 THE COURT: Yes.

6 MR. BURLINGAME: I think it's clear that there's no
7 grounds that it would be admissible evidence. The only reason
8 the defense suggests it would be is to refresh his
9 recollection.

10 THE COURT: I will allow it in on credibility, and I
11 will tell the jury that.

12 MR. BURLINGAME: But there's no --

13 THE COURT: I don't want to get into the problem,
14 which I see down the road from your argument, which I concede
15 is an useful argument, where I will have to dismiss the jury
16 and have the witness -- for these purposes, and have the
17 witness refreshed by listening outside the presence of the
18 jury and then bring the jury in.

19 The whole thing is just too inconvenient. It's too
20 trivial. It doesn't make a bit of difference, and it comes in
21 on credibility anyway. So if the defense wants to play it to
22 refresh, I'll allow it. And I'll tell the jury it's being
23 used to refresh. And if the defendant wants it in on the
24 issue of credibility, but not as evidentiary.

25 MR. BURLINGAME: Since that's Your Honor's ruling,

1 then, would there be any reason not to have him listen to the
2 conversations on head phones. So we can see if his
3 recollection is refreshed without publishing it to the jury.

4 THE COURT: That's a way of doing it.

5 How long do these take?

6 MS. SHARKEY: Two minutes.

7 THE COURT: All right. Then why can't we do it by
8 headphone, that's a good suggestion?

9 MS. SHARKEY: Maybe the witness will concede the
10 conversation. In the event he doesn't --

11 THE COURT: You can refresh his recollection. Do
12 you have the transcripts?

13 MS. SHARKEY: I have the line sheets and I have a
14 transcript prepared by the --

15 THE COURT: If you have the transcripts, that's the
16 easiest way to do it. If not, if it's a minute, let him use
17 the headphones. I thought it was a substantial excerpt.

18 MS. SHARKEY: No.

19 THE COURT: All right. That's sensible. Show him
20 the transcript and see if it refreshes, and let him put on the
21 headphones. Just be prepared and let him refresh.

22 MR. BURLINGAME: Just to make sure that I have the
23 landscape correct. This is in the event that he says yes,
24 that sounds like something I would have said. Then the whole
25 exercise is for naught because it's purely refreshed.

1 THE COURT: I'll allow it. I'll give the defendant
2 some freedom.

3 MR. BURLINGAME: Thank you.

4 MS. SHARKEY: Do you want me to authenticate the
5 tapes through Haggerty?

6 THE COURT: If you want to. The government will
7 concede.

8 MR. BURLINGAME: I don't have a problem with the
9 authentication.

10 MS. SHARKEY: Then I don't need to do that.

11 MR. BURLINGAME: There's a couple of rulings that
12 Your Honor made concerning Mr. McMahon's testimony that I want
13 to remind the Court about. One is that he's going to testify,
14 in the earlier portion of his testimony, concerning that his
15 initial foray into criminal activity with the Gambino family
16 was conducting jury tampering for the defendant's brother,
17 who he was under before he was under the defendant.

18 There's three instances of jury tampering he was
19 involved in in the 80's and 90's. I get through them very
20 quickly. It's important for a number of reasons. To show,
21 you know, the closeness of his relationship with the Carneglia
22 family. To show certain relationships were formed there,
23 which are relevant to later charged crimes.

24 Your Honor previously ruled that the jury tampering
25 evidence is admissible. I just wanted to remind the Court of

1 that before it comes up.

2 THE COURT: It's admissible here because it shows
3 it's a close relationship of this witness to the defendant and
4 his brother and the crime family.

5 MR. BURLINGAME: I've also instructed -- as Your
6 Honor has previously ruled, the defense is precluded from
7 getting into the fact that the defendant's brother was charged
8 with the Gelb murder in 1985. The witness -- I'm not actually
9 sure if he even knows that the defendant's brother was charged
10 with the Gelb murder in 1985, but the evidence -- he's not
11 going to mention that. The Court has previously ruled that a
12 mere mention of the '85 Gotti/Carneglia trial is not going to
13 open the door into questioning about these prior charges. I
14 just wanted to refresh the Court on that.

15 MS. SHARKEY: May I respond before we move on, so
16 there's some linear back and forth here?

17 THE COURT: Yes.

18 MS. SHARKEY: On that issue, Judge, the defense
19 filed last week, which the government has not responded to, I
20 should have alerted you when were you marking the court
21 exhibits. The defense filed a motion to exclude McMahon's
22 hearsay testimony walking in with John Carneglia.

23 MR. BURLINGAME: Moot. We're not eliciting.

24 MS. SHARKEY: You're not eliciting?

25 MR. BURLINGAME: No.

1 And then the final issue for the Court is this is --
2 this witness knows both about the disposal of the body and the
3 use of the acid in the kidnapping incident. He's been
4 instructed many times that acid should not be mentioned in
5 discussing the portion of his testimony concerning the
6 disposal of bodies with relation to the kidnapping.

7 His testimony, I just wanted to make sure that the
8 Court's aware of the full scope. The testimony is going to be
9 that the defendant squeezed the acid out of the turkey baster
10 onto the feet of the people who were kidnapped while he was
11 questioning them about this incident that happened at his
12 brother's house, the shooting, and no one was giving up the
13 information. At this point, after five minutes of this, the
14 defendant pulled down their pants and threatened to shoot the
15 acid into their rectums; at which point everyone coughed up
16 the information and the incident ended.

17 So I just wanted to alert the Court that that's
18 going to be coming up, but he has been clearly instructed that
19 acid is only to be used in relation to the kidnapping and not
20 in relation to the disposal of bodies.

21 THE COURT: Okay.

22 MS. SHARKEY: The Court initially had been inclined
23 not to allow the use of the term acid at all. Then you
24 compromised with the government and said okay, you can't use
25 the term "acid" with disposal of bodies but you can use it in

1 regards to this purported alleged.

2 THE COURT: The Court never compromises. The Court
3 made a decision based upon the Rules of Evidence and 403 that
4 "Relevant evidence with respect to the disposal of the bodies
5 by acid was not to come in, but relevant evidence with respect
6 to the torture of the kidnapped victims was to come in. And
7 that the use of the word "acid" was appropriate because there
8 was testimony that the defendant himself used the word acid in
9 connection with battery acid."

10 There was no compromise.

11 MS. SHARKEY: That was a bad choice of words on my
12 part.

13 THE COURT: Those were my rulings.

14 MS. SHARKEY: However, Judge, I would ask that the
15 Court revisit the term "acid" for the very same reasons that
16 you were initially inclined not to allow it in to begin with.

17 THE COURT: I have revisited it repeatedly. That's
18 my decision.

19 MS. SHARKEY: Judge, I would also ask that the Court
20 reconsider its earlier ruling precluding the defense from
21 eliciting testimony concerning the fact that Mr. Carneglia's
22 brother was previously charged and tried for the murder of
23 Court Officer Gelb.

24 THE COURT: No. I'll not reconsider that. You can
25 brief of the matter fully. My view is that the government

1 does not make admissions that are binding on the entire
2 governmental enterprise when it decides to prosecute or not to
3 prosecute a case. The government is not, in that sense, like
4 an individual who makes an admission which can be used in the
5 future against the government.

6 Now, you can brief it. It's a subtle point but I
7 think it's absolutely clear. If The Southern District U.S.
8 attorney makes a decision to prosecute the wrong person is
9 not making an admission that is the right person when it
10 prosecutes, and it can't be used against the government in the
11 Eastern District.

12 It doesn't make any difference which district
13 prosecuted who. Each case is decided on its individual basis.
14 There are instances where admissions of the government come
15 in, but this is not one of them.

16 Now, you can brief it fully. But I, myself, at the
17 moment, have no doubt that that's the law. But if you want to
18 brief it?

19 MS. SHARKEY: Judge, I think we will. Can I just
20 focus the issue for a moment? Can I ask a question?

21 THE COURT: Yes.

22 MS. SHARKEY: I understand the Court's point about
23 characterizing it as a governmental admission. But
24 respectfully, and I just want to know if the Court is
25 interested in this particular aspect of the point, doesn't

1 that go to the weight of whether or not the jury can consider
2 it versus the actual fact of the matter?

3 THE COURT: It is open to the defendant to show that
4 it was not this defendant but another defendant who did it.
5 That's one of the traditional ways of instilling reasonable
6 doubt in a jury's mind. The murder was committed by somebody,
7 but it wasn't me.

8 Now, if you want to use any of the evidence that's
9 available to you to show that it was somebody else who did it,
10 you're free to do so, but not in this form of an admission.
11 So any evidence you have, which may have come from prior
12 trials or your own research or anything else, showing that
13 Mr. Brown did it or the brother did it or some other person
14 did it, you can use. But not a government admission.

15 Take the evidence and use it as part of your case if
16 you wish to. I'm not inhibiting you from doing that, but
17 you're not going to use this shortcut.

18 MR. BURLINGAME: Judge, the final issue is, towards
19 the end of this witness' testimony he'll talk about
20 participating in the extortion that was the subject of the
21 2000 prosecution order, while talking about the wiretaps
22 earlier. And during that portion of his testimony, he'll
23 explain that he was arrested and who his codefendants were and
24 the relevance of it during certain interactions concerning
25 that case.

1 Specifically, the witness had a legal aid attorney
2 who was able to be acquire copies of the wiretaps for free,
3 and the witness' wife had them. And the defendant had a
4 private attorney and was -- had to pay for the wiretaps.
5 There was a big dispute that took place between the witness
6 and the defendant over acquiring the tapes, which led to the
7 defendant shooting at -- or attempting to shoot the
8 cooperating witness.

9 So I just wanted to clarify that it's already in the
10 case that the defendant was arrested for the 2000 extortion.
11 Agent Haggerty, I think among others, testified to it on
12 Friday. I just wanted to alert the Court that that was also
13 going to be part of the testimony.

14 THE COURT: You can put it in. I must say, you're
15 getting the cases so confused that you're at the point of
16 diminishing returns, but I'll allow it. I'm not going to
17 prohibit you from putting in what seems to be a natural
18 relationship.

19 MR. BURLINGAME: Thank you, Judge. It's very
20 limited. It won't be a big detour.

21 THE COURT: What else?

22 MR. BURLINGAME: That's it.

23 MS. SHARKEY: Two things. That assault, alleged
24 assault, has never been noticed in either the 404(b) or the
25 government's multiple writings concerning the scope of

1 different cooperating witnesses. In fact, this is the first
2 we've heard about it. I'm going to ask that the Court
3 preclude that from coming in.

4 THE COURT: No. You have ample time to prepare.

5 Do you have any further documents or other material
6 on this issue you have not furnished?

7 MR. BURLINGAME: No.

8 THE COURT: Then you have it all.

9 What else?

10 MS. SHARKEY: The last thing. Mr. Carneglia has
11 respectfully insisted that I bring this matter up before the
12 Court. That he believes that one of the agents in this
13 matter, when he's sitting in the line of vision of the
14 cooperating witness on the stand, is cueing the witness, and
15 would respectfully request that -- certainly he's not
16 requesting that anybody --

17 THE COURT: What agent?

18 MS. SHARKEY: I believe it is Agent Tamborino.

19 THE COURT: Denied. I didn't see anything like
20 that. I'm not going to demean the witness on the basis of
21 this defendant's paranoia.

22 Bring in the witness and then bring in the jury.

23 MR. BURLINGAME: Judge, if I can have five minutes
24 with the -- not with the agent, but with the cooperating
25 witnesses to review?

1 THE COURT: Yes. Let's move the case.

2 All right. Take it.

3 MR. BURLINGAME: I'll be very brief.

4 (Recess taken at 9:35 a.m.)

5 (Matter continued on the next page.)

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1 THE COURT: All right. Bring in the witness,
2 please.

3 Have you arranged to bring the witness in?

4 MR. BURLINGAME: It is the continuation of the
5 Special Agent.

6 THE COURT: All right. Then let's have the witness.
7 Bring in the jury, please.

8 G E O R G E H A G A R T Y,
9 called as a witness, having been previously duly
10 sworn, was examined and testified as follows:
11 (Whereupon, the jury enters the courtroom at
12 9:42 a.m.)

13 THE COURT: Good morning, everybody.

14 THE JURY: Good morning, Your Honor.

15 THE COURT: Please be seated.

16 The witness is still under oath.

17 MR. BURLINGAME: Thank you, Judge.

18 CONTINUED DIRECT EXAMINATION

19 BY MR. BURLINGAME:

20 Q Good morning, Special Agent Hagarty.

21 A Good morning.

22 Q Just to refresh your recollection, you testified on
23 Thursday afternoon you investigated organized crime for
24 14 years as a members of the Gambino and Franzese squad in the
25 FBI Long Island office; is that correct?

1 A Correct.

2 Q And you testified that in the spring of 2000 you
3 conducted a wiretap investigation, the extortion of adult
4 entertainment establishments on Long Island on behalf of
5 Ronnie DeConza, Kevin McMahon, and Carl Klein; is that
6 correct?

7 A Correct.

8 Q You testified that on June 20th, 2000 the FBI made
9 arrests based on this investigation, and you arrested the
10 defendant, Charles Carneglia; is that correct?

11 A That is correct.

12 Q And you testified that during the arrest you spotted a
13 number of handwritten notes in the defendant's kitchen, on the
14 defendant's kitchen table, which you immediately recognized to
15 be relevant to your investigation.

16 Is that fair?

17 A In the main living area; that is correct.

18 Q Now, you have never reviewed what has been marked as
19 Government Exhibits 400 to 411 and identified those exhibit
20 numbers as the notes that you seized from the defendant that
21 day; is that correct?

22 A Part of the notes, yes.

23 Q And, finally, the Government read into evidence a
24 stipulation that both the Government and the defendant agreed
25 that those notes were seized lawfully and they were in the

1 defendant's handwriting. Now, what I would like you to ask
2 you to do is step down from the stand, and I will put the
3 notes that you used that day onto the overhead and ask you to
4 identify the information in the notes that you recognize as
5 relevant to your investigation.

6 This is Government's Exhibit 400 that you are
7 looking at now. I believe that you testified this is the
8 first one that you started, and I believe you started with the
9 Fountain Auto Mall.

10 A Fountain Auto Mall is where Charles Carneglia's worked.

11 Q Anything else on this front page above the word "lawyer"?

12 A Above the word "lawyer," no.

13 Q Looking to Page 2 of Government's Exhibit 400?

14 A That is Fat Sally. That is who I believe to be Fat Sally
15 Scala, who is a person of interest in the case that we had.
16 Hotdog was a code name that was used on the wire for Tommy
17 DiFiore, who was a person related to that investigation
18 related to -- I'm sorry. And then the two months, nobody
19 come. That was part of the --

20 MS. SHARKEY: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: That was one of the claims that was
23 made on the wiretap regarding the dispute in the extortion of
24 this Golden Entertainment Center.

25

1 BY MR. BURLINGAME:

2 Q And is that it for this page?

3 A For this portion of what I can see, yes.

4 Q Okay. Now, turning to the third page of Government's
5 Exhibit 400, also on the auto mall stationery.

6 A It has Monday, May 1st, 2000. Genie call -- I believe
7 the --

8 MS. SHARKEY: Objection.

9 THE COURT: Sustained.

10 BY MR. SHARKEY:

11 Q Based on your investigation, did you recognize Genie to
12 be someone who was a person of interest in your investigation?

13 A Yes.

14 Q Why was that?

15 MS. SHARKEY: Objection.

16 THE COURT: Now, ladies and gentlemen, I am
17 permitting the witness to testify, but this is not proof that
18 Genie was connected.

19 Do you understand that? This is designed to
20 indicate they largely relied on the papers as a whole, which I
21 believe to be relevant.

22 THE WITNESS: Genie -- I believe the Genie Gotti,
23 who was in jail, would call every so often to a certain place,
24 and I believe people related to the case would answer the call
25 from Genie Gotti. Skinny Dom, I believe to be Skinny Dom

1 Pizzonia, who was a person related to the case with the River
2 Café.

3 Q Anybody else on the screen that was referred to
4 yesterday?

5 A No.

6 Q Anyone at the bottom of the page?

7 A No.

8 Q I will end with Government's Exhibit 400.

9 Government's Exhibit 401, on the back, is that the
10 Fountain Auto Mall stationery?

11 A Yes. Correct.

12 Q On the front was 04/25/2008, the 25th of 2000, during the
13 period of the wiretap. Again, Genie being Genie --

14 MS. SHARKEY: Objection.

15 THE COURT: I will allow it for the same reason.

16 THE WITNESS: Again, Genie being Gene Gotti being
17 called. That I believe to be Skinny Dom, referring to
18 Skinny Dom Pizzonia, who owned the River Café. Fat Sally, the
19 meeting, is possibly Fat Sally --

20 MS. SHARKEY: Objection.

21 THE WITNESS: -- Scala --

22 MS. SHARKEY: Objection. Conjecture.

23 THE COURT: I will allow it on the same basis as we
24 stated earlier.

25 THE WITNESS: Fat Sally Scala, a person connected

1 with the case number investigation. And I saw the 1:30 next
2 to it, 1:30 p.m., that was a meeting. Meet Carl was Carl -- I
3 believed to be Carl Klein, who was a person involved in the
4 extortion and that was the beeper number (516) 275-0013. That
5 is it for that.

6 THE COURT: Will you turn the lights down, please.

7 BY MR. BURLINGAME:

8 Q Then moving along to Government Exhibit 402. The
9 Fountain Auto Mall Stationery.

10 Did you have an opportunity to review the document?

11 A Yes.

12 Q Were you able to find relevant any names that seem to be
13 pertaining to your investigation on these documents?

14 A Can you go to the front page. There is a lot of
15 doodling. I don't --

16 Q Who were you arresting that day?

17 A Charles Carneglia.

18 Q And is it fair to say the word "Charles" in various forms
19 appears on this document?

20 A Yes. It may have been --

21 MS. SHARKEY: Objection. May have been.

22 THE COURT: Sustained.

23 BY MR. BURLINGAME:

24 Q Do you know at the time for certain that the defendant's
25 handwriting was in the defendant's notes?

1 MS. SHARKEY: Objection.

2 THE COURT: For certain?

3 BY MR. BURLINGAME:

4 Q Did you know at the time what the defendant's handwriting
5 looked like?

6 A No.

7 Q Was it relevant to you that you would be seizing notes
8 with the word "Charles" written all over it?

9 A Yes.

10 Q Moving on to Exhibit 403, again on the Fountain Auto Mall
11 stationery.

12 A 275- -- (631) 275-0013. Again, that was relevant. That
13 was one of the beeper numbers of one of the co-conspirators,
14 the people of interest in the extortion case.

15 318-0384, cell. That was the cell number of --
16 (516) was the cell number of Carl Klein. You can see the name
17 Carl down here. Carl Klein was one of the other people
18 involved in that store caper.

19 Q That was one of the phones that you were tapping?

20 A Correct.

21 Q Moving to the back of Government's Exhibit 403.

22 A May 3rd, 2000. That was relevant because it was within
23 the period that we had under the wiretap. 11:00 a.m., Hotdog
24 Tommy. Hotdog is a code name used on the wire for Tommy
25 DiFiore. He was one of the -- who was one of the other people

1 of interest in the extortion case.

2 Q Moving on to Government Exhibit 404.

3 A Monday, March 13th, 2000. Ronnie, 101st Avenue. That
4 was another person that was related to our investigation.

5 I believe that referred to Ronnie "One Arm" Trucchio.

6 MS. SHARKEY: Objection. What he believes.

7 THE WITNESS: He was --

8 MS. SHARKEY: Objection.

9 THE COURT: You may testify.

10 THE WITNESS: Okay. Genie called -- again, Genie
11 Gotti calling out from jail.

12 Skinny Dom. Skinny Dom Pizzonia, who was related to
13 the investigation.

14 John "Beano" Setaro. "Beano" is written on the
15 paper. John "Beano" Setaro that was one of the people who was
16 related to the case. And I believe that is it.

17 On the reverse side -- should I continue?

18 Q Yes, sir.

19 A On the reverse side of the page it is entitled Friday,
20 March 10th, 2000. Call Kevin's brother-in-law. And I believe
21 I understood that to be --

22 MS. SHARKEY: Objection as to what he understood it
23 to be.

24 THE COURT: I will allow it.

25 All of my rulings are based on previously announced,

1 explained rulings.

2 Continue.

3 THE WITNESS: I believe that Kevin is referring to
4 Kevin McMahon, and it had something to do with his
5 brother-in-law.

6 BY MR. BURLINGAME:

7 Q And you testified earlier that Kevin McMahon was someone
8 whose phone was captured in the investigation?

9 A Correct.

10 Q And I believe you also testified that he was someone who
11 you were going to arrest on the same day as the defendant?

12 A Correct.

13 Q Go on.

14 A Skinny Dom. As I said, Skinny Dom Pizzonia was a person
15 of interest in that case.

16 If you want to put that up a little bit.

17 At the -- if you see the header, the header of the
18 page had a date. And what I was trying to do here is link up
19 possibly who the Jackie was with the things we may have picked
20 up on the wire. The Water View Diner is a water -- is a diner
21 on Howard Beach on Cross Bay Boulevard. And, again, Saturday,
22 03/11/2000, at the bottom of the page, Water View Diner.

23 Peter Vario is someone -- 12:00 p.m., someone
24 affiliated with that case.

25 And, again, call Dom on the bottom, Dom Pizzonia.

1 And if you flip the page, there is a line sheet that
2 has Sunday, 03/05/2000 at 2:00 p.m. at the top. Nothing
3 particularly relevant.

4 Q You didn't recognize the name Joey Calvacante as a person
5 that was relevant to your investigation at that time?

6 A That name did not jump out at me.

7 Q This is Government Exhibit 405.

8 A Sorry.

9 405. It says Monday, May 5th, 2000. Again, Genie
10 called -- Genie -- they're referring to Genie Gotti, and
11 Skinny Dom is Skinny Dom Pizzonia. Called Panz, Sr., is
12 referring to Panzarella. And then called a person of interest
13 generically in that case, call Carl. That is Carl Klein, one
14 of the codefendants in that case.

15 Q And I believe you testified that it was May 5th, 2000?

16 A Oh, I'm sorry. That was May 8th. The header on that
17 page is May 8th, 2000.

18 Q The next item on that page?

19 A Wednesday, May 10th, 2000. Fat Sally, which is Fat Sally
20 Scala. That is his phone number.

21 Q A guy named Bobby Schiavo, was he a part of your
22 investigation at that point?

23 A No. No. The name did not jump out at me at that time.

24 Again, call Carl. I believe that to be Carl Klein.

25 That is the beeper number and that is his cell number.

1 Joe Panz, Sr., Joe Panzarella was a person of
2 interest connected generally with the case.

3 Tommy D., Tommy DiFiore was connected with the case.
4 That was his -- it was his beeper or cell phone.

5 Tommy "Sneakers." Tommy "Sneakers" Cacciopoli,
6 generally related to this case. I don't know whether -- what
7 number that was connected to.

8 Q And the flip side is what?

9 A Fountain Auto Mall.

10 Q Again, what was the Fountain Auto Mall?

11 A The place where Charles Carneglia worked.

12 Q Moving on to Government Exhibit 406.

13 A This page is entitled Wednesday, May -- March 15th, 2000.
14 Beano is the -- I believe to be John "Beano" Setaro, who is
15 generally believed to be related to the extortion case. That
16 may be it.

17 Q Dom, letter of no objection.

18 A Right. That is Skinny Dom Pizzonia, but I'm not sure
19 that was the same. I was going to try and link up the name
20 with something that may have come up on the wire to see if, in
21 fact, that was referring to Skinny Dom. I saw the letter of
22 no objection.

23 Ronnie, Long Island, Tommy D, that is written on the
24 page. Ronnie DeConza, who lived out in Suffolk County, Long
25 Island. Ronnie was a codefendant in the case.

1 Tommy D I believe is Tommy DiFiore, who was a --
2 involved in the extortion.

3 Fat Sally referred to Fat Sally Scala, who was also
4 a -- indicted in that case, in that extortion case.

5 Skinny Dom referred to, I believe, Skinny Dom
6 Pizzonia, who was generally involved with the case.

7 Q And on the flip side?

8 A The flip side of the page says United States Census 2000
9 on it. There was nothing relevant there.

10 Q Government Exhibit 407.

11 A The thin page that has written on it Skinny Dom, who I
12 believe to be Skinny Dom Pizzonia, who related to the
13 extortion case generally. And I was unfamiliar with that
14 particular one at that point.

15 Q Moving to Exhibit 408.

16 A It's titled Monday, March 27th, 2000. Genie Gotti --
17 Genie called, I believe to be Genie Gotti called out of
18 prison.

19 Skinny Dom, I believe to be Skinny Dom Pizzonia,
20 again was related to the case.

21 Again, Beano -- John "Beano" Setaro, who was
22 generally related to that case.

23 Rent for yard I believe related to the Fountain Auto
24 Mall yard.

25 Peter Vario, is generally related to this -- to the

1 extortion case involved, and is the time Thursday, and \$500
2 was written there.

3 Can I see the bottom of the page? I'm sorry. The
4 bottom.

5 Q I'm sorry.

6 A The flip side of the page. There is nothing there.

7 Q When you said generally related to the extortion case,
8 were the extortion charge charges brought within a larger
9 case, or what sort of charges were brought?

10 MS. SHARKEY: Objection.

11 THE COURT: I will allow it.

12 THE WITNESS: There was a RICO case, a racketeering
13 case.

14 BY MR. BURLINGAME:

15 Q And within the racketeering case were extortion charges?

16 A There were extortion charges, yes; correct.

17 THE COURT: That doesn't mean that there is any
18 evidence that extortion took place.

19 BY MR. BURLINGAME:

20 Q I am showing you Government Exhibit 409, the writing in
21 the bottom left-hand corner.

22 A That was not anything relevant.

23 Q There is some writing in the middle of the page.

24 A It was not relevant.

25 Q On the flip side of the exhibit sticker --

1 A Thursday, 03/16/2000 -- the top of the page has Thursday,
2 March 16th, 2000. We will go down the left-hand side of the
3 page. There is nothing particularly relevant there. 03/16,
4 about midway down the page, call Dom. That is Skinny Dom
5 Pizzonia, who is generally related to the case.

6 Again, Thursday, March 23rd, 2000. You have
7 Skinny Dom -- Skinny Dom Pizzonia.

8 You go to the top of the right-hand side of the
9 page, Friday, 03/17. That was particularly relevant because
10 we had a surveillance that was very relevant to that case that
11 occurred on March 17th, 2000. There is nothing else there.

12 March 20th, 2000, again, Genie called, Genie being
13 Genie Gotti called from jail. Skinny Dom is Skinny Dom
14 Pizzonia, who is generally related to the case.

15 Then Tuesday, 03/21/2000, Skinny Dom -- Skinny Dom
16 Pizzonia.

17 Joe Panz is Joe Panzarella, who is generally related
18 to the case.

19 Kevin I believe to be possibly Kevin McMahon, who
20 was involved with the case.

21 And Mickey I was generally involved with the case.
22 I wanted to line it up with what was recorded on tape to see
23 who or what the conversation was all about.

24 There is nothing else on that page.

25 Q Do you know Mickey I's real name? Do you know who that

1 is?

2 A I did at one point. I don't -- it is on the tip of my
3 tongue. I don't now.

4 Q Moving to Government Exhibit 410. Middle of the page.

5 A The header at the top of the page, Tuesday, March 14th,
6 2000. About -- and part of the way down it says, "Ronnie,"
7 comma, "about Sal." The Ronnie I believe to be Ronnie
8 DeConza, who was indicted in that extortion case. Sal I
9 believe to be Sal Scala, who was also indicted in that case,
10 the extortion case. And the date was -- it was during the
11 date that we had the wiretap up.

12 "Beano" refers to John "Beano" Setaro, who we
13 believe is generally related to the case.

14 And that is -- the Dom, that is Skinny Dom Pizzonia.

15 The other side, it has Albert, road management.
16 There is nothing else relevant on that side.

17 Q Government Exhibit 411.

18 A Café Liberty, which was Skinny Dom's social club. And
19 that is the address over there.

20 Q And on the back?

21 A On the back, Tommy D, that was Tommy DiFiore, one of the
22 codefendants in that case. And that, I surmise could be his.

23 MS. SHARKEY: Objection as to "surmise."

24 THE COURT: Sustain.

25

1 BY MR. BURLINGAME:

2 Q Is that a telephone number under Tommy D's name?

3 A Yes. That is correct.

4 Q And you believe that to be relevant to your
5 investigation?

6 A Correct.

7 Q And, again, all of these documents that we have just
8 looked at were seized from a table -- where, you said?

9 A In the main living area.

10 Q Of the defendant's apartment?

11 A Of the defendant's apartment.

12 Q And what was the date of that again?

13 A June 20th, 2000.

14 MR. BURLINGAME: Thank you very much.

15 I have no further questions.

16 (Witness resumes the stand.)

17 THE COURT: Proceed.

18 MS. SHARKEY: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. SHARKEY:

21 Q Good morning.

22 A Good morning.

23 Q How are you?

24 A Good.

25 Q You testified about a number of things from last week and

1 this morning. I want to ask you about the wiretap.

2 Now, you conducted court-authorized surveillance on
3 a couple of phones prior to your arrest of the individuals
4 indicted in this case; is that correct?

5 A That is correct.

6 Q And that would be Kevin McMahon?

7 A That is correct.

8 Q That -- the other wiretaps would be phones for
9 Carl Klein?

10 A That is correct.

11 Q And Ronnie DeConza?

12 A That is correct.

13 Q Now, when you conducted these wiretaps you were listening
14 in to telephone conversations that came in and went out of
15 those phones; is that right?

16 A That is correct.

17 Q And you recorded those conversations; is that right?

18 A That is correct.

19 Q You kept them?

20 A That is correct.

21 Q And you kept them in tape-recorded form; is that correct?

22 A That is correct.

23 Q Now, Agent Hagarty, additionally you testified last week
24 that when you arrested -- withdrawn.

25 The individuals who were indicted as a result of

1 that investigation were Sal Scala; is that right?

2 A Correct.

3 Q Kevin McMahon?

4 A Correct.

5 Q Carl Klein?

6 A Correct.

7 Q John Wire?

8 A Correct.

9 Q John DiSola?

10 A Correct.

11 Q Ron DeConza?

12 A Correct.

13 Q And Charles Carneglia?

14 A Yes.

15 Q You identified Joe Panzarella as a person of interest.

16 He wasn't indicted on this matter, was he?

17 A No.

18 Q Now, you also testified about the arrest of Mr. Carneglia
19 on this matter; is that right?

20 A That is correct.

21 Q And I think that you testified last week that you were
22 looking in the back window and you saw Mr. Carneglia asleep
23 were eyeshades and earplugs; correct?

24 A Correct.

25 Q Mr. Carneglia complied with all of your instructions that

1 day; correct?

2 A Yes. Once he heard us, absolutely.

3 Q And it would also be accurate to say that after you told
4 Mr. Carneglia to go to the front door he did so; right?

5 A Yes.

6 Q And he let the agents in; right?

7 A Yes.

8 Q And you joined them after you went off the fire escape
9 and came around the front door; right?

10 A Yes.

11 Q Into a modest apartment building; is that right?

12 A Yes. Absolutely.

13 Q And the apartment in which Charles Carneglia lived was a
14 modest apartment; is that right?

15 A Yes.

16 Q Pretty messy; is that right?

17 A It was a bachelor pad.

18 Q And, in fact, you said that his chair was actually a
19 stool, an ice chest; right?

20 A Yes.

21 Q One of those plastic Igloo ice chests?

22 A Yes. For red wine.

23 Q Now --

24 MS. SHARKEY: Nothing further.

25 Thank you.

1 MR. BURLINGAME: No redirect, Judge.

2 THE COURT: Thank you. You are excused.

3 The next witness.

4 MR. BURLINGAME: The Government calls Kevin McMahon.

5 THE COURT: Swear the witness, please.

6 K E V I N M C M A H O N

7 called as a witness, having been first

8 duly sworn, was examined and testified

9 as follows:

10 THE WITNESS: Yes.

11 LAW CLERK: You may be seated.

12 Please state and spell your name for the reporter.

13 THE WITNESS: Kevin McMahon. K-e-v-i-n

14 M-c-M-a-h-o-n.

15 MR. BURLINGAME: Judge, I just need to get this

16 board.

17 THE COURT: All right.

18 MR. BURLINGAME: May I proceed, Judge?

19 THE COURT: Yes.

20 DIRECT EXAMINATION

21 BY MR. BURLINGAME:

22 Q Before we start, I will ask you to speak slowly and

23 clearly into the microphone.

24 Did you have any affiliation with organized crime?

25 A Yes.

1 Q What was it?

2 A I was a Gambino associate.

3 Q Looking around the courtroom, do you see anyone else
4 affiliated with the Gambino family?

5 A Yes.

6 Q Who?

7 A Charles Carneglia.

8 Q Can you identify him by a piece of clothing he is
9 wearing.

10 A A green sweater.

11 MR. BURLINGAME: Identifying of the defendant.

12 THE COURT: Yes.

13 BY MR. BURLINGAME:

14 Q What was the defendant's position in the Gambino?

15 A A made man.

16 Q Approximately how old were you first met the defendant?

17 A 12 or 13.

18 Q How old are you now?

19 A 42.

20 Q Did you consider the defendant to be family during this
21 time?

22 A Yes.

23 Q As an associate of the Gambino family did you report to
24 any made men?

25 A Yes.

1 Q Who?

2 A John Carneglia and Charles Carneglia.

3 Q Who is John Carneglia?

4 A Charles Carneglia's brother.

5 Q He was a made man in the Gambino family?

6 A He was.

7 Q How long did you report to Charles Carneglia?

8 A Until June of '89.

9 Q How long did you report to the defendant?

10 A Until 2001.

11 Q When did you start reporting to him?

12 A When John went to jail.

13 Q When was that?

14 A On June 29th, 1989.

15 Q So you were a Gambino family associate directly reporting
16 to the defendant for those 11 years?

17 A That is correct.

18 Q What was the defendant's role in the Gambino family
19 during that time?

20 A He was a made man on call to be for cleaning up bodies
21 and for murder.

22 Q As a Gambino family associate under the defendant did you
23 commit crimes with him?

24 A Yes.

25 Q Did you plead guilty to the 1990 felony murder of

1 Louis DiBono?

2 A I did.

3 Q Did you personally kill DiBono?

4 A I did not.

5 Q Who did?

6 A Charles Carneglia.

7 Q How?

8 A He shot him.

9 Q You witnessed this?

10 A Yes.

11 Q Did you also plead guilty to a 1990 armored car robbery
12 at JFK airport that resulted in the felony murder of José
13 Delgado Rivera?

14 A I did.

15 Q Who committed that crime with you?

16 A Charles Carneglia and Bobby Boriello.

17 Q Who was Bobby Boriello?

18 A He was a made man in the Gambino family.

19 Q What was your role in that armed robbery?

20 A I was the getaway driver.

21 Q How was Delgado Rivera killed?

22 A I believe he was shot.

23 Q During the course of the robbery?

24 A That is correct.

25 Q Did you shoot him?

1 A No.

2 Q Were you at the scene when he was shot?

3 A I was.

4 Q Did you see who did?

5 A No.

6 Q Why not?

7 A I was in the car.

8 Q Did you see Delgado Rivera after he had been shot?

9 A I did.

10 Q When?

11 A When I pulled Charles off of him. He was pistol whipping
12 him.

13 Q What happened to Delgado Rivera after you pulled the
14 defendant off of him?

15 A He fell down.

16 Q Did he move after that?

17 A He did not.

18 Q Did the defendant confide in you?

19 A Yes.

20 Q Did he tell you that he killed other people?

21 A He did.

22 Q Who else did he tell you that he killed?

23 MS. SHARKEY: Objection.

24 THE COURT: I will allow it.

25 BY MR. BURLINGAME:

1 Q You can answer.

2 Who else did he tell you that he killed?

3 A Sal Puma, a court officer, and some guy at a diner.

4 Q How did he kill the court officer?

5 A Shot him.

6 Q How did he kill Sal Puma?

7 A Stabbed him.

8 Q Did he tell you the name of the person that he killed at
9 the diner?

10 A He did not.

11 Q Did he tell you how he killed that person?

12 A Stabbed him.

13 Q Did he tell you the name of the diner?

14 A He did not.

15 Q Do you know anyone else who was present during the
16 stabbing?

17 A George Licastro.

18 Q Did the defendant tell you what happened to George
19 Licastro that night?

20 A He got stabbed in the hand.

21 Q Did the defendant ever tell you about disposing of
22 bodies?

23 A He did.

24 Q Many bodies?

25 A Yes.

1 Q Do you know the identity of any of the bodies that he
2 told you that he disposed of?

3 A John Favara.

4 Q Who was John Favara?

5 A He was a man that was driving home from work and hit
6 Frank Gotti's -- John Gotti's son on a mini bike.

7 Q What was John Gotti's son's name?

8 A Frank Gotti.

9 Q Who was John Gotti at the time?

10 A He was a captain.

11 Q In what?

12 A In the Gambino family.

13 Q Did the defendant tell you why he got rid of Favara's
14 body?

15 MS. SHARKEY: Objection.

16 THE COURT: I will allow it.

17 BY MR. BURLINGAME:

18 Q You may answer.

19 A Angelo Ruggiero gave it to him.

20 Q You testified that you committed crimes with the
21 defendant.

22 A Correct.

23 Q How many?

24 A Too many to remember.

25 Q When did you last speak to the defendant?

1 A On -- sometime in late 2000 or 2001.

2 Q Late 2000 or early 2001?

3 A What was that again?

4 Q You said late 2000?

5 A Yeah. That is it. Early 2001, yes.

6 Q In a sentence, what happened the last occasion that you
7 spoke to the defendant?

8 A He pulled a gun out on me. He said I killed his mother
9 because he was going to jail.

10 Q When were you born?

11 A October 1966.

12 Q Where were you born?

13 A Brooklyn.

14 Q What were your parents' names?

15 A Joyce and Michael McMahon -- Joyce Driscoll and Michael
16 McMahon.

17 Q When you were born, did you have any physical problems?

18 A I was a withdrawal baby.

19 Q What does that mean?

20 A I was addicted to heroin when I was born.

21 Q Why were you addicted to heroin when you were born?

22 A My parents were junkies.

23 Q How long did you live with your natural parents?

24 A Until I was six.

25 Q You also lived in foster homes during that period?

- 1 A I did.
- 2 Q Is your father alive today?
- 3 A He is dead.
- 4 Q How old were you when your father died?
- 5 A Six.
- 6 Q How did he die?
- 7 A He got killed by my mother and her boyfriend.
- 8 Q Why did your mother and her boyfriend kill your father?
- 9 A They had a fight. I'm not exactly -- I don't remember.
- 10 Q Where you were living when your father was killed?
- 11 A I was in a foster home.
- 12 Q Where did you live after he was killed?
- 13 A My grandmother got custody of us in Howard Beach.
- 14 Q So you went to start living with her?
- 15 A Yes.
- 16 Q How old were you when you started living with your
- 17 grandmother?
- 18 A Six or seven.
- 19 Q And how long did you live with your grandmother after you
- 20 moved in at that age?
- 21 A Until I was, like, 12 or 13 -- 12.
- 22 Q Why did you stop living with her when you were 12 or 13?
- 23 A She threw me out.
- 24 Q Why did she throw you out?
- 25 A I was getting into trouble with cars, and she just

1 thought I was following my father's footsteps.

2 Q How did she -- what did she do when she threw you out?

3 A She just locked the doors.

4 Q You couldn't get back inside the house?

5 A That is correct.

6 Q What did you do when she first started locking the doors?

7 A I would sleep in the backyard if it was warm out. If it
8 got cold I went to friends' backyards, and eventually I ended
9 up in John Carneglia's backyard.

10 Q How did you end up in John Carneglia's backyard?

11 A We would hang out on his corner and I would talk to his
12 son and I knew he had a cabana and it was warm and it was
13 closed in?

14 Q What is a cabana?

15 A It's a pool house with a toilet and, I guess, storage for
16 you towels and stuff like that.

17 Q So you started sleeping in his pool house?

18 A I did.

19 Q Did he know you were sleeping in his pool house?

20 A He did not.

21 Q You snuck in?

22 A Yes.

23 Q Did there come a point in time when John Carneglia found
24 out that you were sleeping in his pool house?

25 A He did.

1 Q What did he do?

2 A He took me into his house.

3 Q Did you then start staying with the Carneglias?

4 A I did.

5 Q Over the next few years where did you live?

6 A I lived in a few apartments, and then I ended up getting
7 an apartment across the street from John's house.

8 Q How old were you got that apartment?

9 A I think 14 -- 13 or 14. I am not really positive.

10 Q How did you get that apartment?

11 A He got it for me.

12 Q And you say "he"?

13 A John Carneglia.

14 Q Did John Carneglia give you money?

15 A Yes.

16 Q Did you eat meals with the Carneglias?

17 A I did.

18 Q Did you watch TV with them?

19 A I did.

20 Q Did you go on vacations with them?

21 A I did.

22 Q How did John Carneglia refer you to?

23 A He told everybody I was his nephew, but he treated me
24 like a son.

25 Q Did you consider the Carneglias to be your family?

1 A I did.

2 Q Are you married?

3 A I'm not really sure, but I was married.

4 Q Were the Carneglias at your wedding?

5 A They were.

6 Q Where did they sit at your wedding?

7 A At the first table.

8 Q What does that signify to you?

9 A Well, the first table on my side is immediate family.

10 Q Who was John Carneglia to you?

11 A He was like a father.

12 Q What about Charles Carneglia?

13 A He was like an uncle.

14 Q I am showing you what has been marked as Government
15 Exhibit 80.

16 Do you recognize this?

17 A Yes.

18 Q Is it fair to say these are family photos that you
19 provided to the Government?

20 A That is fair.

21 Q Are these fair and accurate reproductions of the photos
22 that you provided to the Government?

23 A Yes.

24 Q And just generally, who is depicted in these photos?

25 A The Carneglia family. John's family. Charles' mother.

1 MR. BURLINGAME: I move to admit Government's
2 Exhibit 80.

3 MS. SHARKEY: No objection.

4 THE COURT: Granted.

5 (So marked as Government's Exhibit 80 in evidence.)

6 MR. BURLINGAME: Judge, permission for the witness
7 to come down and show who is who on the board?

8 THE COURT: Yes.

9 BY MR. BURLINGAME:

10 Q If you could -- I'm going to -- if you could just stand
11 over to the side over there and go through and explain who is
12 who in the photos slowly. I am going to put stickers above
13 the people that you identify.

14 First of all, where was this photo taken?

15 A The El Caribe.

16 Q What is El Caribe?

17 A It's a catering hall.

18 Q What occasion was this?

19 A My wedding.

20 Q Okay. And we are talking about the top left-hand corner
21 on Government Exhibit 80.

22 Can you identify who is in the photo at your
23 wedding, starting at the top.

24 A Charles Carneglia.

25 Q Hold on just a second.

1 Next?

2 A Chris Carneglia. Helene Carneglia.

3 Q And who is Chris Carneglia?

4 A John's son.

5 Q It says Helen Carneglia, but that should be Helene
6 Carneglia; is that correct?

7 A Correct.

8 Q And who is Helene Carneglia?

9 A John's wife.

10 Q Next over?

11 A My wife.

12 Q Has her face been obscured?

13 A Yes.

14 Q Who is next over?

15 A Me.

16 Q The next over?

17 A Justine Carneglia.

18 Q Who is Justine Carneglia?

19 A The daughter of John Carneglia.

20 Q Now starting on the other side.

21 A John John.

22 Q And who is John -- John John?

23 A He is the youngest son of John Carneglia.

24 Q And who are these two ladies over here on the bottom
25 right?

- 1 A This is Helen Forgione.
- 2 Q And who is she?
- 3 A She is the mother-in-law of John Carneglia.
- 4 Q Who is next to her?
- 5 A Jenny Carneglia.
- 6 Q And who is Jenny Carneglia?
- 7 A Charles and John's mother.
- 8 Q And moving to the next photo, where was this photo taken?
- 9 A Outside of a church.
- 10 Q On what occasion?
- 11 A My daughter's christening.
- 12 Q And can you identify who is who in the photo.
- 13 A John John.
- 14 Q That is John Carneglia, Jr.?
- 15 A Yes.
- 16 Q Who is next to him?
- 17 A Justine.
- 18 Q Who, again, is Justine?
- 19 A She is the daughter.
- 20 Q Who is next to Justine?
- 21 A My wife.
- 22 Q Who is next to your wife?
- 23 A Helene.
- 24 Q And, again, who is Helene?
- 25 A John's wife -- John Carneglia's wife.

1 Q John Carneglia's wife.

2 Who is next to Helene Carneglia?

3 A Me.

4 Q And who is next to you?

5 A Chris Carneglia.

6 Q And that is John Carneglia's son?

7 A That is correct.

8 Q Elder or younger son?

9 A He is the younger.

10 Q And who is this little girl down here?

11 A My daughter, both of them are.

12 Q That is your older daughter?

13 A Yes.

14 Q And you said this is your baby's christening?

15 A Yes.

16 Q Okay. Now, in the bottom photo, where was that photo
17 taken? The first photo on the bottom on the left-hand side.

18 A I believe Terre Haute, Indiana.

19 Q What is Terre Haute, Indiana?

20 A It's a federal prison.

21 Q Okay. And what occasion was this when this photo was
22 taken?

23 A A visit.

24 Q What were you doing in -- a visit to whom?

25 A To John Carneglia.

1 Q He was in prison in Terre Haute, Indiana?

2 A That is correct.

3 Q And who is present in the photo?

4 A Charles.

5 Q Who else?

6 A Me.

7 Q Who else?

8 A John Carneglia and Sal Scala.

9 Q Who is Sal Scala?

10 A He is a captain in the Gambino family.

11 Q The next photo?

12 A Me and John Carneglia.

13 Q Where was this taken.

14 A He's got a different outfit on. It may be Allenwood.

15 Q Another prison?

16 A Yes.

17 Q Another visit?

18 A Yes.

19 Q Did you visit John Carneglia frequently in prison?

20 A Yes.

21 Q The next photo?

22 A Me, John Carneglia, Jenny Carneglia, and Charles.

23 Q This is the bottom right photograph I am on right now.

24 And who is Jenny Carneglia?

25 A John and Charles' mother.

1 Q And where was the photo taken?

2 A The prison. I am not sure which one.

3 Q Another visit --

4 A Allenwood.

5 Q Another visit to John Carneglia?

6 A Yes.

7 Q And these photos you provided to the Government from your
8 family photo collection?

9 A Correct.

10 MR. BURLINGAME: Okay. I will ask you to retake the
11 stand.

12 BY MR. BURLINGAME:

13 Q Do you know where John and Charles Carneglia grew up?

14 A East New York.

15 Q Do you know their parents' names?

16 A Jenny and Bill Carneglia.

17 Q Did they have any other siblings?

18 A They did. They had an adult -- a sister that was
19 disabled.

20 Q Did the defendant ever get married?

21 A No.

22 Q Did John Carneglia get married?

23 A Yes.

24 Q You testified his wife's name was Helene?

25 A That is correct.

1 Q Who was she to you?

2 A She was like a mother.

3 Q What is her birthday?

4 A 03/25/47.

5 Q What is John Carneglia's birthday?

6 A 09/13/44.

7 Q What are Helene's parents' names?

8 A Helen Forgione. I don't know the father's name.

9 Q Her father wasn't around?

10 A No.

11 Q Now, you testified that John Carneglia had how many
12 children?

13 A Three.

14 Q What were their names again?

15 A John John, Justine, and Christopher.

16 Q Is it fair to say the Carneglias were your family?

17 A That is fair to say.

18 Q When you were growing up, did John Carneglia want you
19 spending time with the defendant?

20 A He did not.

21 Q Why not?

22 MS. SHARKEY: Objection.

23 BY MR. BURLINGAME:

24 Q Did he tell you why not?

25 A Yes.

1 Q Why not?

2 A He said --

3 THE COURT: Do not answer.

4 THE WITNESS: Excuse me?

5 THE COURT: Do not answer.

6 THE WITNESS: Okay.

7 BY MR. BURLINGAME:

8 Q What was your understanding as to why you were not
9 supposed to hang out with Charles Carneglia while you were
10 growing up?

11 MS. SHARKEY: Objection.

12 THE COURT: Do not answer.

13 BY MR. BURLINGAME:

14 Q Did you ever get into trouble when you were with the
15 defendant when were you growing up?

16 A I did.

17 MS. SHARKEY: Objection.

18 THE COURT: You may answer.

19 BY MR. BURLINGAME:

20 Q Can you explain what happened.

21 A We took a ride to a lawyer's office, Herb Lyons, and he
22 got into a fight with the security guard at the door. And it
23 was a fight, and he got arrested. Charles Carneglia got
24 arrested.

25 Q What were you doing at the lawyer's office that day?

1 MS. SHARKEY: Objection.

2 THE COURT: Sustained.

3 BY MR. BURLINGAME:

4 Q You were at the lawyer's office that day?

5 A We never made it in.

6 Q Do you know why you went to the lawyer's office that day?

7 MS. SHARKEY: Objection.

8 THE COURT: Sustained.

9 BY MR. BURLINGAME:

10 Q Whose lawyer was it?

11 A Andrew Curro's.

12 Q Growing up, did there come a point in which you become
13 aware of John and Charles Carneglia's links to organized
14 crime?

15 A There did.

16 Q When did you realize?

17 A When it was in the papers.

18 Q Around what year was that?

19 A '81 and '82. I am not exactly sure.

20 Q Approximately how old were you when you found this out?

21 A 15 or 16.

22 Q Up until that point, what did you think that John
23 Carneglia did for a living?

24 A Owned a junkyard and real estate.

25 Q I am showing you what is in evidence as Government 2C1.

1 Do you recognize that person?

2 A Yes.

3 Q Who is it?

4 A Charles Carneglia.

5 Q I am showing you what is in evidence as 2C2.

6 Do you recognize that person?

7 A Charles Carneglia.

8 Q I am showing you what is in evidence as Government's
9 Exhibit 2LL.

10 Do you recognize that person?

11 A John Carneglia.

12 Q What was the highest position you are aware of
13 John Carneglia obtaining in the Gambino family?

14 A Made man.

15 Q What about Charles Carneglia?

16 A The same.

17 Q Now, you testified that you were an associate in the
18 Gambino family under John Carneglia and the defendant.

19 What is the Gambino family?

20 A It is a crime family of the La Cosa Nostra.

21 Q Are there other crime families in New York City?

22 A There are.

23 Q What are they?

24 A Genovese, Colombo, Lucchese, and Bonanno.

25 Q Any there any New Jersey based crime families?

1 A There are.

2 Q What are they?

3 A DeCavalcante.

4 Q You mentioned the term La Cosa Nostra.

5 What does that mean?

6 A Figurales.

7 Q And what does that refer to?

8 A Mafia.

9 Q Is the Gambino part of the La Cosa Nostra?

10 A They are.

11 Q Did the Gambino family have a structure?

12 A Yes.

13 Q Can you explain to the jury the structure of the Gambino
14 family.

15 A Boss, underboss, consiglieri, captains, made men, and
16 associates.

17 Q What is the boss' role in the family?

18 A To control everything.

19 Q What is the extent of his power?

20 A It is endless.

21 Q What is the role of the underboss?

22 A To shield the boss.

23 Q What about the consiglieri?

24 A To decide in decision making.

25 Q What do captains do?

1 A Captains have a crew, and they also shield the boss and
2 make money.

3 Q What is a crew?

4 A A group of guys with -- well, if it's a captain it is
5 usually a bunch of made men.

6 Q Made men report to a certain captain?

7 A That is correct.

8 Q Do people other than captains have crews?

9 A Yes.

10 Q Who?

11 A Made men -- made men have crews.

12 Q Can associates ever have crews?

13 A The rules under the La Cosa Nostra, no. But in the
14 Gambino family there were a couple of occasions.

15 Q Do you know what those couple of occasions were, who they
16 were?

17 A Charles Carneglia for a little while, Johnny Alite, and
18 Joe Watts.

19 Q And how does an associate get to have a crew?

20 A If the boss says it is okay or -- the boss did whatever
21 he wanted to do.

22 Q What is the function of made members in the Gambino
23 family?

24 A What is their what?

25 Q What is their function? What are they -- what are they

1 supposed to do?

2 A Oh, what are they supposed to do? Make money, murder,
3 anything that the boss wants or the captain.

4 Q What are some other names for made members?

5 A Goodfellow, wiseguy, friend of ours.

6 Q Are there rules for made members of organized crime?

7 A There are.

8 Q What are some of those rules?

9 A Don't sell drugs. Don't kill another made man. Don't
10 fool around with people's wives. Don't rat. That is always a
11 good one.

12 Q What is the penalty for ratting?

13 A DOA. Dead on arrival or on the spot.

14 Q What does it mean to rat?

15 A What I am doing today.

16 Q Cooperating with the Government?

17 A Yes.

18 Q Are there any rules or customs about physical appearance?

19 A Yes.

20 Q What are they?

21 A No facial hair.

22 Q Did you ever see anyone involve in organized crime with
23 facial hair?

24 A Only Charles.

25 Q Did you also know him to be clean shaven at times?

1 A Yes.

2 Q Any other ways that you ever saw the defendant change his
3 physical appearance?

4 A The hair color, read.

5 Q You saw him with red hair?

6 A Yes.

7 Q Did he ever tell you why he colored his hair?

8 MS. SHARKEY: Objection.

9 THE COURT: Just yes or no.

10 THE WITNESS: Yes.

11 BY MR. BURLINGAME:

12 Q What did he say to you?

13 MS. SHARKEY: Objection.

14 THE COURT: I will allow it.

15 THE WITNESS: To when he was on the lam he didn't
16 want people to ID him.

17 BY MR. BURLINGAME:

18 Q What does it mean to be "on the lam"?

19 A Run away from law enforcement, hide out.

20 Q What do you mean by saying people ID him?

21 A Cops running around with pictures, a different hair
22 color, a different person, a beard.

23 Q Now, you testified that organized crime members are not
24 supposed to deal in drugs.

25 Can you think of any members of the Gambino family

1 that broke that rule?

2 A It is hard to think of members that didn't.

3 Q Can you name some that did?

4 A Gene Gotti, John Carneglia, Charles Carneglia, Fat Sally,
5 Eddie Lino, Angelo Ruggiero, and a couple of others.

6 Q You said Fat Sally.

7 Who is Fat Sally?

8 A The guy in the bottom picture, Sal Scala. A captain in
9 the Gambino family.

10 Q I am showing you what is in evidence as Government's
11 Exhibit 2Y.

12 Do you recognize that person?

13 A Yes.

14 Q Who is it?

15 A That is Fat Sally.

16 Q What was the highest position he obtained in the Gambino
17 family?

18 A Captain.

19 Q I am showing you what is in evidence. I am showing you
20 what is in evidence as Government's Exhibit 2XX-2.

21 Who is that?

22 A Gene Gotti.

23 Q Government's Exhibit 2XX-1?

24 A Gene.

25 Q Gene Gotti?

1 A Gene Gotti, yeah.

2 Q What is the highest position Gene Gotti obtained in the
3 Gambino family?

4 A Captain.

5 Q Government Exhibit 2CCC.

6 Who is that?

7 A Eddie Lino.

8 Q And what is the highest position Eddie Lino obtained in
9 the Gambino family?

10 A Captain.

11 Q And I am showing Government Exhibit 2NNN, as in Nancy.

12 Who is that?

13 A Angelo Ruggiero.

14 Q What is the highest position he obtained in the Gambino
15 family?

16 A Captain.

17 Q Did he have a nickname?

18 A "Quack Quack."

19 Q I just put Gene Gotti on the board.

20 Is he related to John Gotti, who you testified about
21 earlier?

22 A He is.

23 Q How?

24 A He is his brother.

25 Q Now, you testified Gene Gotti sold drugs.

1 Who did he sell drugs with?

2 A John Carneglia and Angelo Ruggiero.

3 Q What kind of drugs did they sell?

4 A Heroin.

5 Q What were their positions in the Gambino family at the
6 time they were selling heroin?

7 A Angelo was a captain and Gene and John were made men.

8 Q To your knowledge, were they ever punished by the Gambino
9 family for dealing heroin?

10 A No. They were not.

11 Q Who decided if the rules are enforced?

12 A The boss.

13 Q In your experience, did John Gotti, Sr., enforce rules
14 consistently?

15 A He did not.

16 Q Did he enforce the rules differently based on who
17 violated them?

18 A He did.

19 Q Did valuable members of the family get away with breaking
20 more rules?

21 A Yes.

22 MS. SHARKEY: Objection.

23 THE COURT: I will allow it.

24 THE WITNESS: Yes.

25 BY MR. BURLINGAME:

1 Q Valuable members of the Gambino family did get away with
2 breaking more rules?

3 A Yes.

4 Q Are killers valuable to the family?

5 MS. SHARKEY: Objection.

6 THE COURT: I will allow it.

7 THE WITNESS: They are.

8 BY MR. BURLINGAME:

9 Q Are you aware of the defendant ever being disciplined for
10 anything?

11 A No.

12 Q Now, you testified that you were an associate in the
13 Gambino family.

14 What is the role of an associate?

15 A To answer to a made man and do what he says.

16 Q So as an associate, is it fair to say you were at the
17 bottom of the ladder?

18 A Yes. That is fair.

19 Q Did you hope to move forward in the family?

20 A No.

21 Q Why not?

22 A I am Irish.

23 Q Where does an associate's power come from?

24 A His made -- his guy, his made man.

25 Q Where did your power come from?

1 A John and Charles.

2 Q Why did you switch from being under John Carneglia to
3 being under the defendant?

4 A John went to jail on June 29th, 1989.

5 Q Up to that date had you performed any illegal activity
6 for the Gambino family?

7 A I did.

8 Q What?

9 A Jury tampering.

10 Q When did you first engage in jury tampering?

11 THE COURT: We will take a short break and then come
12 back. Have the witness back in ten minutes, please.

13 (Whereupon, the jury leaves the courtroom at
14 10:50 a.m.)

15 (Matter continued on the next page.)
16
17
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25

1 (Time noted: 11:08 a.m.)

2 THE COURT: Exhibit 4 of today's date will be added
3 to the exhibit list.

4 You can take water if you wish.

5 THE WITNESS: Thank you.

6 (Whereupon the jury enters the courtroom at 11:10
7 a.m.)

8 THE COURT: Please be seated. Proceed.

9 MR. BURLINGAME: Thank you, judge.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. BURLINGAME:

12 Q You testified before the break that John Carneglia went
13 to jail in June of 1989, and up to that point you performed
14 jury tampering for the Gambino family. When did you first
15 engage in jury tampering?

16 A '85, '86.

17 Q Was there a case on trial?

18 A There was.

19 Q Who were the participants in that case?

20 A Neil Dellacroce, John Gotti, Willie Boy Johnson, Tony
21 Roach, Lenny DiMaria, Nicky Corozzo, Willie Boy, Gene Gotti
22 and John Carneglia.

23 Q I'm showing you Government's Exhibit 2-RR. Can you tell
24 me who that is?

25 A Neil Dellacroce.

1 Q What was the highest position he obtained in the Gambino
2 family?

3 A He was underboss, but he died before the trial started.

4 Q I'm showing you Government's Exhibit 2-P. Who's that?

5 A John Gotti.

6 Q John Gotti, Senior?

7 A Yes.

8 Q What was the highest position he obtained in the Gambino
9 family?

10 A Boss of all bosses.

11 Q I'm showing you Government's Exhibit 2-G. Who is that?

12 A Nicky Corozzo.

13 Q What was the highest position he obtained in the Gambino
14 family?

15 A Captain.

16 Q I'm showing you Government Exhibit 2-K.

17 A Lenny DiMaria.

18 Q The highest position he obtained?

19 A Made man. I'm not sure what else he obtained.

20 Q Was there any relationship between Nicky Corrozo and
21 Lenny DiMaria?

22 A They were very good friends.

23 Q You testified that you tampered with the jury in a case
24 involving Nicky Corozzo, Lenny DiMaria, John Carneglia and
25 John Gotti, Senior, among others, correct?

1 A Correct.

2 Q How did that start?

3 A I was walking through the parking lot across the street
4 and the juror drove by, and I was walking with John. I said
5 oh, there's one of your jurors.

6 Q Which John were you walking with?

7 A Carneglia.

8 Q Okay. And what happened?

9 A I took the -- I'd seen the plate. I copied it down and
10 he said give to Ronnie DeConza.

11 Q Who is Ronnie DeConza?

12 A He was an associate in the Gambino family.

13 Q I'll show you Government Exhibit 2-QQ. Who is that?

14 A Ronnie DeConza.

15 Q Any nickname for him?

16 A The Frog.

17 Q After that first instance where you passed along the
18 juror's license plate that you saw when you were with John
19 Carneglia, did you continue to do the same thing?

20 A Yes.

21 Q At the time, did you know what was done with the license
22 plate information?

23 A I assumed but I didn't know for sure.

24 MS. SHARKEY: Objection.

25 THE COURT: That answer is sufficient.

1 BY MR. BURLINGAME:

2 Q Did you later learn what happened to the license plate
3 numbers you were turning over?

4 A I did.

5 Q What was happening?

6 MS. SHARKEY: Objection.

7 THE COURT: How did he learn it?

8 BY MR. BURLINGAME:

9 Q How did you learn it?

10 A Ronnie told me he was running it in motor vehicle.

11 Q He was the coconspirator in the jury tampering?

12 A He was.

13 THE COURT: I'll allow it.

14 BY MR. BURLINGAME:

15 Q Did you later learn what happened to the license plate
16 numbers you were turning over to Ronnie DeConza?

17 A Yes.

18 Q What?

19 A They were getting run through an insurance guy who had
20 access to DMV, the Department of Motor Vehicle computer.

21 Q What does it mean to run the license plate?

22 A You give the license -- you punch the license plate
23 number in the computer and it gives name and address of where
24 the car is registered to.

25 Q Did you know why the license plates were being run?

1 A To find the location to see if people knew where the
2 jurors, where they lived.

3 Q What would be the purpose of that?

4 MS. SHARKEY: Objection.

5 THE COURT: Don't answer.

6 Q Did you know why, what was the purpose of running the
7 plates and finding out the jurors' names and addresses?

8 MS. SHARKEY: Objection.

9 THE COURT: You can answer yes or no.

10 A Yes.

11 BY MR. BURLINGAME:

12 Q That was part of the jury tampering that you were
13 involved in?

14 A That's correct.

15 MR. BURLINGAME: Sufficient, Judge?

16 THE COURT: No. Find out who he learned it from.

17 BY MR. BURLINGAME:

18 Q Who did you learn it from?

19 A Ronnie DeConza.

20 Q Your coconspirator in the jury tampering?

21 A Correct.

22 Q What did he tell you?

23 MS. SHARKEY: Objection.

24 THE COURT: I will allow it.

25 A Actually, there was a problem that came up. The marshals

1 found out we were running the plates.

2 BY MR. BURLINGAME:

3 Q The question was what was the purpose of running the
4 plates?

5 A I think I answered it a couple time before this, to see
6 where the juror lived and see if people knew.

7 Q What was the purpose of that?

8 MS. SHARKEY: Objection.

9 BY MR. BURLINGAME:

10 Q That Ronnie DeConza told you?

11 THE COURT: I will allow that.

12 A To fix the jury.

13 BY MR. BURLINGAME:

14 Q Was there a conviction in that case involving John Gotti,
15 Senior, Nicky Corozzo, Lenny DiMaria and John Carneglia?

16 A No.

17 Q Do you know if your work had anything to do with that?

18 A I don't know.

19 Q Before that trial, did you know John Gotti, Senior?

20 A Yes.

21 Q How did you know him?

22 A I knew him from the neighborhood. And I was driving the
23 dirt bike that Frank Gotti got killed on before -- I had it
24 first and I parked it. And then Frank Gotti jumped on it and
25 everybody thought it was my bike.

1 Q Who was Frank Gotti?

2 A John Gotti's son.

3 Q And what happened to Frank Gotti again?

4 A He got run over by John Favara by accident.

5 Q So you were riding the dirt bike that he was killed on,
6 immediately prior to him getting killed?

7 A Yeah. And everyone thought it was mine, yes.

8 Q Prior to the trial, how did John Gotti treat you?

9 A He didn't. He treated me like anybody. I don't think he
10 liked me.

11 Q Because of the incident with the dirt bike?

12 A Correct.

13 Q After the trial how did he treat you?

14 A Very good.

15 Q Did he keep you around when he played cards?

16 A On Sunday nights, yeah. He said I brought him luck, but
17 he never won anyway.

18 Q Did he keep you around for anything else?

19 A He was superstitious of boats. So when he went on the
20 boat I always had to sit behind him. When he would take one
21 of his sons on the boat, Not Guilty.

22 Q What days did you go out on the boat ride with him?

23 A Sunday.

24 Q How often did you go out on the boat with him?

25 A Through the summer.

1 Q Which summer?

2 A I'm not really remembering. I think after the trial, the
3 '86 acquittal.

4 Q What was the name of that boat again?

5 A Not Guilty.

6 Q Who drove the boat?

7 A A guy, Carlos.

8 Q Do you recall his last name?

9 A Something with a V. I don't remember. He owned a
10 restaurant.

11 Q Did anyone pay you for the jury tampering that you did in
12 that case?

13 A No.

14 Q How old were you when you were doing this?

15 A I was 20. 19 or 20.

16 Q Was jury tampering the first time you broke the law?

17 A No.

18 Q What other crimes had you committed in your life up to
19 that point?

20 A I would rob cars, I would take them. Insurance jobs.

21 Q How old were you when you first started robbing cars?

22 A Thirteen. I would joy ride in them.

23 Q What does that mean to joy ride in a car?

24 A Well, there was a bunch of car thieves in our
25 neighborhood so I would go by their houses. If the column was

1 broke, I would jump in and drive around with a stolen car.

2 Q What do you mean if the column was broken?

3 A To rob the car you had to break the column. So you could
4 see that it was broken. In the 80's it was called
5 columnization or columnized.

6 Q And once the column is broken, is it easy then to steal
7 the car?

8 A Yeah, you just pull the rod back. You can tell whether
9 it was stolen that way.

10 Q There were numerous car thieves in your neighborhood?

11 A Correct.

12 Q So at first you just took joy rides in the cars?

13 A Yes.

14 Q Did there come a point in time when you started stealing
15 cars yourself?

16 A Yes.

17 Q How old were you?

18 A Fourteen, 15.

19 Q At first, what would you do with the cars you stole?

20 A I would drive them around. And then I would start taking
21 the bumpers and stuff, dropping them off to other car thieves
22 to sell for me.

23 Q Did you start making money off of it?

24 A Correct.

25 Q How old were you when you started making money from

1 stealing cars?

2 A Fourteen, 15, 16. I was living by myself.

3 Q Is this when you were living in the apartment across the
4 street from the Carneglias -- John Carneglia?

5 A That's correct.

6 Q When did you stop stealing cars?

7 A 1995.

8 Q How old were you in 1995?

9 A Twenty-nine, 28.

10 Q So from the period that you were 13 or 14 years old until
11 you were 29 you were stealing cars?

12 A Repeat that again.

13 Q From the period when you -- you testified that you first
14 started stealing cars when you were how old?

15 A Thirteen, 14.

16 Q You stopped when were you how old?

17 A Thirty -- oh, no. Yeah.

18 Q You stole cars throughout that period?

19 A Yes.

20 Q How many cars do you think you've stolen over the course
21 of your life?

22 A Too many to count.

23 Q More than 100?

24 A Yes.

25 Q More than 500?

1 A I don't think so.

2 Q Ballpark 500?

3 A Somewhere around there. Not over five, but 300. I'm not
4 sure.

5 Q You ever get arrested for stealing cars?

6 A I did. No, I didn't -- yeah. I got arrested by a stolen
7 car, yes.

8 Q What does that mean "by a stolen car"?

9 A They caught me by a stolen car. They couldn't arrest
10 because I wasn't in the car, but I might have had a radio in
11 my hand or something. So possession of stolen property.
12 Maybe the case was reduced to possession of stolen property.
13 I'm not sure.

14 Q How many times were you arrested related to car thefts?

15 A Four or five. I'm not exactly sure.

16 Q During that period when you were stealing cars when you
17 were 13 until you were 30, did you make money in legitimate
18 ways as well?

19 A Yes.

20 Q What sorts of jobs did you have?

21 A Well, I was on probation so I worked as a stock boy and
22 other things. Then I also worked in the airport,
23 steamfitters. And the movie business. The movie industry.

24 Q What did you do at the airport?

25 A I drove a forklift.

1 Q What are steamfitters?

2 A They work with sprinklers and big pipes, stuff like that.
3 Boilers.

4 Q Is that a union job?

5 A That is.

6 Q Did your connection to the Gambino family help you get
7 that job?

8 A It did not.

9 Q You said you worked in the movie business. What did you
10 do?

11 A I was a grip.

12 Q What does that mean?

13 A I worked behind the camera, moving lighting equipment and
14 flags and stuff like that.

15 Q Moved things around?

16 A Yes.

17 Q Is that a union job?

18 A That is.

19 Q Did your connection with the Gambino family help you get
20 that job?

21 A It did not.

22 Q Now, after the John Gotti acquittal, did you tamper with
23 any other more juries for the Gambino family?

24 A Yes.

25 Q How many more juries did you tamper with?

1 A Three more.

2 Q Who was on trial in those three cases?

3 A John -- the next case was John, Genie, Angelo Ruggiero
4 and Oscar Insorian, I think the name was.

5 Q And when you say John, who are you talking about?

6 A Carneglia.

7 Q And when you say Genie who were you talking about?

8 A Gotti.

9 Q And when you say Angelo who were you talking about?

10 A Ruggiero.

11 Q What about the next case that you tampered with?

12 A Just Angelo and -- just John Carneglia and Gene Gotti.

13 Q And what about the final case you tampered with?

14 A Eddie Lino.

15 Q How did you tamper with the jury in the trial involving
16 John Carneglia, Gene Gotti and Angelo Ruggiero?

17 A Same way.

18 Q What was the result of that trial?

19 A Hung jury.

20 Q Did they try the case again?

21 A They did.

22 Q Did you and others tamper with the jury again?

23 A We did.

24 Q Did Ronnie DeConza take part in it?

25 A He did.

1 Q In that case, do you know if any juror was approached?

2 A Yes.

3 Q Do you know if that juror participated in the final jury
4 deliberation?

5 A He did --

6 MS. SHARKEY: I object.

7 THE COURT: I'll allow it.

8 A He did not.

9 BY MR. BURLINGAME:

10 Q Why not?

11 MS. SHARKEY: Objection.

12 THE COURT: I'll allow it.

13 A He told the judge that he'd been approached and they
14 removed him.

15 Q Did the jury reach a verdict?

16 A They did.

17 Q What was the verdict.

18 A Guilty.

19 Q John Carneglia was finally convicted?

20 A That's correct.

21 Q In total, how many John Carneglia trials did you tamper
22 with before he was convicted?

23 A Three.

24 Q What was the sentence following conviction?

25 A Fifty years.

1 Q When did John Carneglia start serving that sentence?

2 A He got remanded before he got sentenced. June 29th,
3 1989.

4 Q Do you remember the exact date?

5 A Yes.

6 Q Why?

7 A Because it was a bad day for me.

8 MS. SHARKEY: Objection.

9 THE COURT: I'll allow it.

10 BY MR. BURLINGAME:

11 Q Why do you remember the exact date?

12 A It was like losing a father.

13 Q What's the last good memory that you have with John
14 Carneglia before he went to jail?

15 A The Hamptons.

16 Q When you say the Hamptons, what do you mean?

17 A Long Island in the Hamptons.

18 Q Taking a trip to the Hamptons?

19 A Yeah.

20 Q Who went on the trip?

21 A A bunch of people.

22 Q When did that trip take place?

23 A It was before John went to jail. Probably the last
24 weekend of that week.

25 Q June of 1989?

1 A Correct.

2 Q Any special occasion that weekend?

3 A I believe it was father's day.

4 Q You said a bunch of people were there that weekend. Can
5 you name some of the people that were in the Hamptons on that
6 trip?

7 A John Carneglia's whole entire family. Charles Carneglia,
8 Jenny, Ronnie DeConza. Angelo Ruggiero and his family.
9 Michael Reiter. Hunter Adams. Carlos who had the boat.
10 Peter Zuccaro. There was a bunch of people. I can't remember
11 all of the names.

12 Q Was a guy named Bobby Schiavo there?

13 A Yes. He was there.

14 Q Tony Muscatello?

15 A Correct.

16 Q Richie Ingardia?

17 A Yes.

18 Q What's his nickname?

19 A Fat Richie.

20 Q Mike Albanese?

21 A Yes.

22 Q And you were there, right?

23 A Correct.

24 Q And you mentioned Peter Zuccaro, who was he?

25 A An associate in the Gambino family.

1 Q I'm showing you what's in evidence as government --

2 A That's him.

3 Q -- 2BB-1.

4 Who's that?

5 A That's him, Peter Zuccaro.

6 Q Do you know a nickname for him?

7 A Bud.

8 Q You said he was an associate?

9 A That's correct.

10 Q At that time, who was the made man he was under?

11 A John Carneglia.

12 Q You mentioned Fat Richie Ingardia. Who was he?

13 A He was John Carneglia's partner in property.

14 Q You also mentioned Anthony Muscatello. Who was he?

15 A He was under Angelo Ruggiero, an associate.

16 Q Did he have any daughters?

17 A He did.

18 Q What were their names?

19 A Jennifer, Stephanie, and Ro.

20 Q You notice Ro's full name?

21 A Rosemary Muscatello.

22 Q Did you have any relationship with any of the daughters?

23 A I went out with Stephanie, my girlfriend.

24 Q Was anyone else dating another Muscatello daughter when
25 you were going out with Stephanie?

1 A Yeah. A kid Lenny Fernando, Fernindo [sic]. I don't
2 know his name, how to pronounce it.

3 Q Started with an F?

4 A Yeah, I believe so.

5 Q A Spanish sounding name?

6 A Spanish or Italian. I'm not really sure.

7 Q Who was he dating?

8 A Rosemary.

9 Q Do you know who his closest friends were?

10 A He had a guy named John that he was friends with that
11 became a doctor. And then he had the Rosetti brothers. Lee
12 Gold. Maybe the Massa brothers.

13 Q Where was this Lenny F. From?

14 A Lindenwood.

15 Q You also mentioned Bobby Schiavo. Who was he?

16 A He was a friend of John Carneglia.

17 Q Did John Carneglia ever do any favors for Schiavo that
18 you're aware of?

19 A Yeah. He had --

20 MS. SHARKEY: Objection.

21 THE COURT: Find out the basis for his information.

22 BY MR. BURLINGAME:

23 Q Did John Carneglia ever tell you any favors that Bobby
24 Schiavo did for him, yes or no?

25 A That John Carneglia did favors for him? Is that what you

1 said?

2 Q Yes.

3 THE COURT: Who did favors for whom?

4 BY MR. BURLINGAME:

5 Q John Carneglia did favors for Bobby Schiavo, did John
6 Carneglia tell you about that?

7 A Yes. That's correct.

8 Q Did John Carneglia tell you that before he reported to
9 prison?

10 A Yes.

11 Q That was when you were a family associate under John
12 Carneglia?

13 A That's correct.

14 Q What were the favors that John Carneglia told you that he
15 did for Schiavo?

16 MS. SHARKEY: Objection.

17 THE COURT: I'll allow it.

18 A Somebody was looking to kill him.

19 THE COURT: To kill whom?

20 THE WITNESS: Bobby Schiavo.

21 BY MR. BURLINGAME:

22 Q Carneglia took care of the situation?

23 A He did.

24 MS. SHARKEY: Objection as to leading.

25 THE COURT: Denied. You may continue.

1 BY MR. BURLINGAME:

2 Q I'm showing you Government Exhibit 2-JJJJ. Bobby
3 Schiavo?

4 A Correct.

5 Q Do you know if Schiavo was ever arrested?

6 A Yes.

7 Q How do you know?

8 A I was arrested in -- I was trying to rob a car in Nassau
9 County, and I broke an antenna off a car. So I got arrested
10 for petty larceny and I had a court case in the Mineola
11 courthouse. So he had a trial going at the same time.

12 Q Around when was this?

13 A I'm not positive of the dates.

14 Q Ballpark?

15 A '86 or '87. I'm not sure. I got arrested, I don't
16 remember what year.

17 Q What was Schiavo on trial for?

18 MS. SHARKEY: Objection.

19 THE COURT: I'll allow it.

20 A Stolen car parts.

21 BY MR. BURLINGAME:

22 Q You also mentioned Michael Reiter. Who is he?

23 A He was under Charles Carneglia. He was a Gambino
24 associate. His father was on the original case with John
25 Carneglia and Gene Gotti, Mark Reiter.

1 Q I'm showing you Government's Exhibit 2-JJJ.

2 A Michael Reiter.

3 Q And what's the highest position he obtained in the
4 Gambino family?

5 A Associate.

6 Q Do you recall if anyone came to the Hamptons that weekend
7 by boat?

8 A Yes.

9 Q Who came by boat?

10 A Michael Reiter, Hunter Adams and Carlos. I don't know if
11 it was the Not Guilty boat or a different boat. But it was
12 the same make, a Fountain.

13 Q How many boats came?

14 A Two.

15 Q Who owned the boats?

16 A Hunter Adams and Carlos had a boat with no name on it.

17 Q What kind of boats were they?

18 A One was a Fountain ICBM. It's a race boat. Reggie
19 Fountain made it. And the other boat, I think, was a Baja.

20 Q How big was the Fountain boat?

21 A It looks long in the video. I believe it's 40 feet.

22 Q What color was it?

23 A Red.

24 Q What about the other boat?

25 A It was white and it said Let's Do It on the side.

1 Q Who was the boat that said Let's Do It on the side?

2 A Hunter Adams.

3 Q And you referred to a video. What are you talking about?

4 A It was the Hamptons video. When we were all there in the
5 Hamptons.

6 Q Videos were taken that weekend?

7 A Yes.

8 Q You have copies of those videos?

9 A Yes.

10 Q You watched those videos?

11 A I did. All the time.

12 Q Why did you watch those videos all the time?

13 A It's good memories of all of us together.

14 Q You mentioned that Hunter Adams came by boat. Who was
15 Hunter Adams, to your knowledge?

16 A He was a Gambino associate under Charles Carneglia.

17 Q Can you describe his relationship with the defendant?

18 MS. SHARKEY: Objection.

19 THE COURT: Overruled.

20 BY MR. BURLINGAME:

21 Q Go ahead?

22 A He was under Charles Carneglia. He answered to Charles.

23 Q What sorts of things -- what did the relationship consist
24 of?

25 A He pretty much kept him shielded away from all of us.

1 Q When you say he kept him shielded away, who's "he" and
2 "him"?

3 A Charles kept him away from guys like me.

4 Q Hunter Adams shielded?

5 A Yes.

6 Q What did Hunter Adams do?

7 MS. SHARKEY: Objection.

8 THE COURT: I'll allow it. You'll establish how he
9 knows.

10 A He had Joker Poker machines.

11 BY MR. BURLINGAME:

12 Q No. What was the basis of his relationship with the
13 defendant, that you're aware of from your observations?

14 A He paid tribute to him.

15 Q I'm showing you Government's Exhibit 2-ZZ. Who's that.

16 A Hunter Adams.

17 Q Highest position?

18 A Associate.

19 Q Are you aware of Hunter Adams being involved in illegal
20 activity?

21 A Yes.

22 Q What kinds?

23 A Part business, Joker Poker machines and he had a stock
24 business on -- some kind of Wall Street firm or office.

25 Q What's Joker Poker?

1 A They're machines that pay out. Like the little bars and
2 stuff. I guess like sort of like Atlantic City slot machines.

3 Q What sorts of places are Joker Poker machines found?

4 A They're hidden in the back places all over. Bodegas,
5 delis. There was one in the bait and tackle place.

6 Q You said there's one in the bait and tackle place.
7 What's the bait and tackle place?

8 A It was a place on Cross Bay. Phil's Bait and Tackle
9 Shop.

10 Q Do you know who had a machine there?

11 A Hunter had a machine there.

12 Q These machines are legal or illegal?

13 A They are illegal.

14 Q You mentioned Phil's Bait and Tackle Shop. Who is Phil?

15 A An associate around Charles.

16 Q He owned the bait and tackle shop?

17 A He did.

18 Q You said that Hunter Adams paid the defendant, do you
19 know how often he paid him?

20 A Once a week. If he missed a week he would double up the
21 next week.

22 Q Do you know how much he paid him?

23 A Not exactly. 500 to 1,000. I'm not really positive of
24 the figures.

25 Q How do you know he paid every week?

1 A Because Charles would meet him. He used to come to the
2 junk yard and then Charles felt there was a little heat
3 around. Or maybe Bob Vandette was floating round so he would
4 meet him at different places.

5 Q You know some of the places he met him?

6 A Lindenwood Diner or Cross Bay Diner or Carosella's.

7 Q You mentioned someone was floating around. Who did you
8 mention?

9 A The friendly neighborhood FBI agent.

10 Q What was his name?

11 A Bob Vandette.

12 Q Did you try to involve Hunter Adams in any illegal
13 activity?

14 A Yes, I did.

15 Q In a sentence, what did you try to get him involved in?

16 A I tried to make him sell my stolen paintings.

17 Q Did the defendant find out that you tried to bring Hunter
18 Adams into the scheme?

19 A He did.

20 Q What was his reaction?

21 A He blew his top.

22 Q Why?

23 A He don't want Hunter involved in anything. That was his
24 means of income.

25 MS. SHARKEY: Objection.

1 THE COURT: I'll allow it.

2 BY MR. BURLINGAME:

3 Q That's what he said to you?

4 A Correct.

5 Q What period was this, when you had that conversation?

6 A I don't remember exactly. I guess when I was selling the
7 pictures, '98, '99.

8 Q Are associates who kick up money to made guys free to
9 stop payments?

10 A No.

11 MS. SHARKEY: Objection.

12 THE COURT: I'll allow it.

13 BY MR. BURLINGAME:

14 Q What happens to them if they do?

15 A They get beatings.

16 Q You testified that Hunter Adams was also involved in the
17 stock market in some way?

18 A Yes.

19 Q Did you have any idea how that business worked?

20 A No.

21 Q Was the defendant aware that Hunter Adams was involved in
22 the stock business, to your knowledge?

23 A Yes.

24 Q How do you know that?

25 MS. SHARKEY: Objection.

1 THE COURT: I'll allow it.

2 A He went to sit downs for him.

3 BY MR. BURLINGAME:

4 Q What is a sit down?

5 A A sit down is usually between two made men or two
6 captains.

7 Q What is the purpose of a sit down?

8 A To settle a beef.

9 Q What is a beef?

10 A A dispute over money or properties. Or if it's an
11 extortion, over who has a right to extort a place.

12 Q How do you know that the defendant attended sit downs for
13 Hunter Adams regarding the stock business?

14 A I drove him.

15 Q Do you know how many sit downs the defendant attended for
16 Hunter Adams?

17 A I do not know.

18 Q Do you know if it was more than one?

19 A Yes.

20 Q How do you know that?

21 A I drove him to one. I knew there were others that came
22 up.

23 Q How do you know that?

24 A He told me.

25 Q When you say "he," who do you mean?

1 A Charles Carneglia.

2 Q Approximately, when did the sit downs regarding Hunter
3 Adams' stock business take place?

4 A I don't remember exactly. The same thing, '97, '98, '09.

5 Q Did the defendant have a nickname for Hunter Adams.

6 A He did.

7 Q What was it?

8 A Archer.

9 Q Why did he call him Archer?

10 A In case you were talking in a place and you said I was
11 going to go meet Archer or something, it wouldn't be Hunter.
12 Or he wouldn't even say it, he'd just go like this
13 (gesturing). Because his name's Hunter, this is a bow and
14 arrow.

15 MR. BURLINGAME: Let the record reflect the witness
16 is miming shooting a bow and arrow.

17 THE COURT: Yes.

18 BY MR. BURLINGAME:

19 Q So would he use that signal sometimes to refer to Hunter
20 Adams?

21 A Correct.

22 Q What was your understanding as to why he would signal
23 instead of just saying I'm going to go meet Hunter Adams?

24 A Because in the back office in the junk yard it could be
25 bugged.

1 Q You said his nickname was Archer. Do you know why?

2 A Or Archie. It went from Archer to Archie.

3 Q You know why Archer was picked?

4 A Because it's called an archer. It's called an archer I
5 think. That bow and arrow stuff, archery.

6 Q Right. I understand how you get to the bow and arrow
7 from Archer, but do you know why Archer was picked in the
8 first place?

9 A Because his name was Hunter. Hunter, you go hunting.

10 Q Now, was John Carneglia's trial the last time you were
11 involved in jury tampering?

12 A It was not.

13 Q What was the next one?

14 A Eddie Lino's case.

15 Q Was a verdict reached in that case?

16 A It was.

17 Q What was the verdict?

18 A Not guilty.

19 Q Do you know if the jury was successfully tampered with?

20 A I do.

21 Q And was it?

22 A Yes.

23 Q What year did the trial take place?

24 A Sometime in 1990 when John was away -- when Carneglia was
25 away. He was the defendant on the same case.

1 Q During the period before John Carneglia got sent to jail,
2 did you commit any other crimes beside jury tampering for the
3 Gambino family?

4 A Repeat that again.

5 Q During the period before John Carneglia was sent to jail,
6 did you perform other crimes besides the jury tampering for
7 the Gambino family?

8 A Before John went to jail?

9 Q Yes.

10 A Maybe arson or something.

11 (Matter continued on the next page.)

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1 DIRECT EXAMINATION (CONT'D.)

2 BY MR. BURLINGAME:

3 Q Do you have a specific recollection of it?

4 A I burnt a couple of cars, score cars that people had.

5 Q What's a score car?

6 A A stolen car that you use.

7 Q That you use when?

8 A You just steal it if you're doing a score or if you're
9 going to give somebody a beating or something, if you don't
10 have a work car you use a stolen car.

11 Q What's a score?

12 A A score is a robbery.

13 Q Why would you burn a score car?

14 A Fingerprints.

15 Q Once John Carneglia went to prison did your life change?

16 A Yes.

17 Q How so?

18 A I lost a father figure, then I started hanging out with
19 Charles every day.

20 Q Before John Carneglia went to prison how frequently did
21 you see Charles Carneglia?

22 A He lived across the street by his mother's so he would
23 walk over occasionally.

24 Q You weren't seeing him every day?

25 A No.

1 Q Once John Carneglia went to prison how frequently were
2 you seeing him?

3 A Every day.

4 Q Did you stay in touch with John Carneglia after he went
5 to prison?

6 A I did.

7 Q How?

8 A Telephones and visits.

9 Q Visits like the ones on Government Exhibit 80?

10 A Yes.

11 Q Did you know John Carneglia to be involved in the
12 marijuana business?

13 A He was.

14 Q And on its most basic level, what was that marijuana
15 business?

16 A Buy low, sell high.

17 Q Bulk marijuana?

18 A Yes.

19 Q Did John Carneglia have any partners in that marijuana
20 business?

21 A He did.

22 Q Who?

23 A Peter Zucarro and Frankie Lap.

24 Q Did he continue in the marijuana business after he went
25 to jail?

1 A He did not, he gave it over to Charles.

2 Q How do you know that?

3 A I was on visits.

4 Q What happened on the visits?

5 A John wanted to get his original investment money back.

6 Q Let's just back up a second. You said you knew that the
7 defendant took over his brother's marijuana business?

8 A Yes.

9 Q You said that you knew from visits?

10 A Correct.

11 Q Did you hear them discussing the marijuana business on
12 visits that you were present for?

13 A Yes.

14 Q Okay. Now, where did those visits take place?

15 A Terre Haute, Indiana.

16 Q Do you know if the defendant ever made any money from the
17 marijuana business after he took it over from his brother?

18 A Yes, I think one time.

19 Q Do you know how much he made?

20 A 40, 60, I'm not really sure, 40, 60,000.

21 Q Did you ever hear the Carneglia brothers discuss any
22 problems concerning the marijuana business?

23 A Yes.

24 Q In a sentence or two, what was the source of the problem?

25 A They felt Peter Zucarro robbed all the money, all the pot

1 money because he says the load got seized by the police but
2 yet nobody could verify it?

3 Q So, Peter Zucarro said that a marijuana shipment had been
4 seized and the Carneglia brothers thought that Peter Zucarro
5 was lying to them and stole the money?

6 A And it was 350,000, yeah.

7 Q That's how much money was lost?

8 A Correct.

9 Q Were there a number of meetings between the defendant and
10 his brother at Terre Haute in which they discussed this
11 problem?

12 A Well, they were visits but the topics came up, yeah.

13 Q Did you attend those meetings?

14 A Yes.

15 Q Did anyone else besides the two brothers ever take part
16 in the discussions at Terre Haute concerning this problem?

17 A Yes.

18 Q Who?

19 A Peter Zucarro and Frankie Lap came up.

20 Q How many trips to Terre Haute did Peter Zucarro make?

21 A He only made one.

22 Q And did that trip resolve the problem?

23 A I don't think so.

24 Q Do you know if John Carneglia ever got his money back?

25 A I think he got some of it back.

1 Q Do you know if the defendant ever attempted to collect
2 money from Peter Zucarro?

3 A Yes. I did too.

4 Q When you tried to collect it, what did you ask for?

5 A I said John wants his money and then Peter was saying
6 he's broke but yet he had Rolexes and new cars and stuff so
7 John at one time wanted the Rolex.

8 Q Did you ask Peter for it?

9 A Yeah.

10 Q Did the dispute over the marijuana money cause problems
11 between Peter Zucarro and the defendant?

12 A Yes.

13 Q What made member of the Gambino family was Peter Zucarro
14 under at the time he started having this dispute with the
15 defendant?

16 A He was under Charles and then he switched over to Iggy.

17 Q Do you know why he switched over?

18 A He couldn't get along with Charles and he was worried.

19 Q When you say "he was worried," why?

20 MS. SHARKEY: Objection.

21 THE COURT: Find out how he found out.

22 Q How did you find out?

23 A It was obvious.

24 Q How so?

25 A Charles would call him and he would never come or one

1 time he'd come, he'd bring his baby and his family, so he was
2 worried about something happening to him.

3 Q You said that Peter Zucarro ended up with a different
4 member of the Gambino family?

5 A Yes.

6 Q Who was that?

7 A Iggy Alogna.

8 Q Do you know Alogna's position in the family?

9 A Captain.

10 Q After Zucarro was placed under Alogna what happened to
11 the dispute between him and the defendant over the marijuana
12 money?

13 A It still continued and then Sal Scala got involved and
14 Ronnie DeConza.

15 Q What happened when they got involved?

16 A I don't know, I lost contact with it. I know they were
17 disputing over money.

18 MS. SHARKEY: Objection as to anything else if he
19 lost contact with it.

20 THE COURT: Overruled.

21 Q You can continue.

22 A They were just feuding. It was a never ending feud all
23 over the phone, everywhere.

24 Q Who was Sal Scala?

25 A A captain in the Gambino family.

1 Q (Indicating.)

2 A That's Iggy.

3 Q Government Exhibit 2-A.

4 And what was his highest position in the Gambino
5 family?

6 A Captain.

7 Q How do you know that Scala and Alogna handled the dispute
8 between the defendant and Zucarro over the drug money?

9 A Ronnie told me and I was there when they would come back
10 from a visit.

11 Q Do you know why Sal Scala handled the dispute?

12 MS. SHARKEY: Objection.

13 THE COURT: I'll allow it.

14 A He's a captain.

15 Q Why would that be important?

16 A Iggy wasn't doing too good with Charles with the
17 conversation.

18 Q What position was Iggy?

19 A He was a captain.

20 Q Is there any rule about captains talking to captains?

21 A If you can't work out the problem with a made man then
22 they call it pulling rank and they go and get your captain and
23 two captains have to handle it.

24 Q Now, you testified that after John Carneglia went to
25 prison you started seeing the defendant every day?

1 A Yes.

2 Q Did there come a time when you started getting involved
3 in criminal activity with him?

4 A Yes.

5 Q Was your work as a car thief useful to the defendant in
6 any way?

7 A Yes.

8 Q How so?

9 A I put some cars together, work cars.

10 Q What's a work car?

11 A Well, we went to the junkyard and found a car that was
12 smashed up, you can't drive it, it's totalled, and you take
13 the plate out of the windshield which has the motor vehicle
14 numbers on it, the identification numbers, you steal the same
15 exact car and you put it in and then you register the car
16 fictitious, under a fake name.

17 Q And what's the purpose of that?

18 A The purpose of it is you have a brand new car that runs
19 good and it is not registered to you.

20 Q Why do you call it a work car?

21 A Because if you have to do something you think your plate
22 might be taken, you use that so nothing can come back to you.

23 Q When you say "do something," what sort of activity are
24 you talking about?

25 A Surveillance, robberies, beatings.

1 Q Did you have work cars in the summer of 1990?

2 A I did.

3 Q Was the defendant aware of that?

4 A He was.

5 Q What were the work cars you had on hand that summer?

6 A Brown Cutlass Sierra and a gray Cadillac and a custom
7 van, red custom van, Dodge, high-top.

8 Q Where did those cars come from?

9 A I stole them.

10 Q Did there come a point in time when the defendant told
11 you that Iggy Alogna was going to pick up the work cars from
12 you?

13 A He did.

14 Q Where did he tell you this?

15 A Outside of John Gotti's headquarters, the Bergin Hunt and
16 Fish Club on 101st Avenue.

17 Q Was anyone else present during this conversation?

18 A Bobby Borriello.

19 Q What did the defendant tell you?

20 A He told me Iggy was going to pick the cars up and to make
21 sure that they started and ran, had gas because the cars would
22 sit for a long time and nobody would use them until something
23 had to be used so.

24 Q To the best of your recollection, when did you have this
25 conversation?

1 A End of August, it was warm out. It was the parking lot
2 of the Bergin Hunt and Fish Club by the bank.

3 Q 1990?

4 A Correct.

5 Q When the defendant told you to get the cars ready, did he
6 tell you why Alogna needed them?

7 A He didn't tell me why Alogna needed them, no.

8 Q Did you get the cars ready?

9 A I did.

10 Q Did Alogna come pick up the cars?

11 A He did.

12 Q How long were the cars gone for?

13 A Two weeks.

14 Q Did you later learn what Alogna was using the cars for?

15 A Yes.

16 Q How did you learn it?

17 A The cars came back and Bobby was complaining that Iggy
18 couldn't do the job, he was supposed to scoop up a guy, kidnap
19 him and bring him to John Gotti.

20 Q Do you know why he was supposed to scoop up a guy and
21 bring him to John Gotti?

22 MS. SHARKEY: Objection.

23 A I didn't know at the time.

24 MS. SHARKEY: Objection.

25 THE COURT: All right, it will remain. I don't see

1 why it is objectionable.

2 MS. SHARKEY: Foundation, Judge.

3 THE COURT: Proceed.

4 Q Let me rewind a second.

5 You said you learned what Alogna was using those
6 cars for. Can you just tell the jury again what he was using
7 the cars for?

8 A He was using them to scope out a guy and pick him up and
9 bring him -- pick him up off the street, kidnap him.

10 Q Who was he going to bring the guy to?

11 A To John Gotti, Sr.

12 Q Why was he going to bring the guy to John Gotti, Sr.?

13 A Because John Gotti was calling him and he wasn't coming.

14 Q And is there an organized crime rule that you're aware of
15 that you have to come in when the boss calls for you?

16 A If your mother is dying, your wife is giving birth, if
17 the boss calls you, you come.

18 Q At the time did you know the name of the guy that Alogna
19 was looking to scoop up?

20 A At the time I did not know.

21 Q Do you know his name now?

22 A Yes.

23 Q Who was it?

24 A Louis DiBono.

25 THE COURT: Well, would you fix how he knows that.

1 Q How did you know that it was Louis DiBono; how did you
2 learn that it was Louis DiBono that Alogna was looking to
3 scoop up?

4 A After he got killed it was all over the paper.

5 Q Did you take part in his murder?

6 A I did.

7 Q I'm showing you Government Exhibit 2ss; who is that?

8 A That's Louis DiBono.

9 Q And I'm showing you Government Exhibit 30; who is that?

10 A I guess that's Louis DiBono. It looks different from the
11 other picture.

12 Q Are they two pictures of Louis DiBono?

13 A Yeah.

14 Q Did Louis DiBono have any affiliation with the Gambino
15 family?

16 A He did.

17 Q What was his position?

18 A I believe he was a made man.

19 Q That's why it was important for him to come in when John
20 Gotti was calling?

21 A That is correct.

22 Q Now, was Iggy Alogna successful in trying to kidnap
23 DiBono during the two weeks he had the cars?

24 A He was not.

25 Q Who, if anyone, took over that job for him?

1 A Bobby Borriello took over and included Charles and two
2 other guys.

3 Q Now, who was Bobby Borriello?

4 A He was John Gotti's driver and he was a made man in the
5 Gambino family.

6 Q I'm showing you Government Exhibit 2gg; who is that?

7 A Bobby Borriello.

8 Q What was the highest position he attained in the Gambino
9 family?

10 A Made man.

11 Q Do you know if the defendant and Borriello started
12 looking for DiBono?

13 A Yes.

14 Q Did they start looking for him as soon as you got the
15 work cars back from Alogna?

16 A They did, they were missing for a couple of days.

17 Q Did there come a time when you helped them look for
18 DiBono?

19 A There did.

20 Q How did you get involved?

21 A I came by one night and they were taking a ride to
22 Oceanside to look for him and I jumped in a car with some guy
23 and Charles and Bobby were in another car with radios and
24 there might have been another third car but I don't remember.

25 Q What was the purpose of going to Oceanside that night?

1 A Same thing, to bring Louis DiBono in.

2 Q Did the group find DiBono that night?

3 A No. As they were getting close, they cancelled it over
4 the radio and that was it.

5 Q Did the defendant and others keep looking for DiBono in
6 the days after you went to Oceanside?

7 A I don't remember if they went out a couple of times but
8 I'm not sure.

9 Q Did there come a point when they got information about
10 DiBono's whereabouts?

11 A They did.

12 Q What did they learn?

13 MS. SHARKEY: Objection.

14 THE COURT: Find out how he knew.

15 Q Were you present when --

16 A Yes, I was present when the phone call came over and they
17 gave the location where Louis DiBono worked or was -- had an
18 office in the World Trade Center.

19 Q Where were you when that phone call came over?

20 A I was in Charles's mother's house.

21 Q Who else was there?

22 A Bobby Borriello and some guy named Harpo, H A R P O.

23 Q Who is Harpo?

24 A I don't know.

25 Q Do you know his real name?

1 A No.

2 Q Do you know him well?

3 A No.

4 Q Had you ever met him before this occasion?

5 A I don't remember, I don't think so.

6 Q What was your understanding as to why he was at the
7 defendant's mother's house that day?

8 A I have no idea.

9 Q Who was he friends with that you're aware of?

10 A Bobby Borriello.

11 Q I'm showing you Government Exhibit 322; do you recognize
12 that person?

13 A Yeah.

14 Q Who is it?

15 A Harpo.

16 MR. BURLINGAME: Move to introduce Government
17 Exhibit 322.

18 THE COURT: Admitted.

19 (Government Exhibit 322 received in evidence.)

20 MR. BURLINGAME: Publish to the jury, Judge?

21 THE COURT: Yes.

22 Q Oh, and which -- there's two individuals in this picture,
23 which one is Harpo?

24 A The one that has the bushy hair like the clown.

25 Q And the sunglasses?

1 A Correct.

2 Q What happened after you, the defendant, Harpo and Bobby
3 Borriello found out that DiBono would be at the World Trade
4 Center?

5 A We got in the cars and left.

6 Q Where did you go?

7 A Drove to the World Trade Center.

8 Q And who went?

9 A The people you just said, Charles, Harpo and Bobby and
10 myself.

11 Q How many cars did you take?

12 A We took two.

13 Q Who went in which car?

14 A We went in a gray Cadillac Sedan DeVille, it was the
15 larger model, and Bobby --

16 Q Continue.

17 A Bobby went in the custom van or his own town car, I don't
18 remember.

19 Q Bobby was by himself?

20 A Bobby Borriello was by himself with a radio.

21 Q So, who was in the gray Cadillac?

22 A Me, Harpo and Charles.

23 Q And was this the same gray Cadillac that was one of the
24 work cars you lent to Alogna?

25 A It was.

1 Q Who sat where in the car that you were in, the gray
2 Caddie?

3 A Harpo was driving and Charles was sitting in the
4 passenger seat and I was sitting behind Harpo.

5 Q In the back seat?

6 A Correct.

7 Q Did you have any equipment with you?

8 A We had radios, scanners and nylon zip-ties.

9 Q What is a scanner?

10 A A scanner is -- it's a thing that picks up frequencies,
11 usually police frequency, and every area you go into,
12 different precincts or different areas, you could just punch
13 in that area, whatever cops are in there. So, if you're in
14 Brooklyn, you punch in the Brooklyn frequency; you go to
15 Queens, you punch in a different frequency.

16 Q What does it allow you to do when you punch in the
17 frequency?

18 A Hears all the calls, everything that they say.

19 Q Why would you bring a scanner along?

20 A In case someone reports something.

21 Q Be aware of what the police are doing?

22 A Correct.

23 Q You said you brought radios; what do you mean when you
24 say radios?

25 A They were -- they didn't have Nextels then so they were

1 just five watt walkie-talkies, the most powerful you could get
2 at the time, hand-held walkie-talkies.

3 Q Who owned those walkie-talkies?

4 A I did.

5 Q Why did you have them?

6 A I used them for jury tampering.

7 Q How much did those walkie-talkies cost?

8 A At the time they were six -- five, 600 a piece.

9 Q When you got in the car with the defendant and Harpo,
10 what was your understanding as to what you were going to do at
11 the World Trade Center?

12 A Bring Louis DiBono in.

13 Q But at the time you didn't know it was Louis DiBono,
14 correct?

15 A Correct.

16 Q Around what time of day did you leave for the World Trade
17 Center?

18 A It was between 10 and 12, 1, I'm not --

19 Q Late morning?

20 A Yeah. I wasn't an early riser.

21 Q Did you go to the World Trade Center?

22 A I did.

23 Q You did?

24 A Yes.

25 Q With the other people in your car?

1 A Yep.

2 Q When you got there where did your car go?

3 A We went through a gate and we went underneath the World
4 Trade Center.

5 Q What was underneath the World Trade Center?

6 A Parking lots.

7 Q Did you go to any particular spot in the parking lot?

8 A Bobby was on the radio, yeah, they pretty much -- Harpo
9 drove to a spot, I don't know what spot it was.

10 Q Sitting here today you don't remember exactly which spot
11 in the World Trade Center parking lot?

12 A I'm sure there was a couple of floors, I don't remember.

13 Q Your testimony is to you it appeared that you were going
14 to a particular spot?

15 A Yes.

16 Q What did Borriello do; he was in a separate car, correct?

17 A Yes.

18 Q What did Borriello do when you got to the World Trade
19 Center?

20 A He stayed on the street or he came in and parked
21 somewhere because we had radio contact with him.

22 Q Somewhere different than you?

23 A Yes.

24 Q And you said he had a radio?

25 A Yes.

1 Q Why did he have a radio?

2 A To keep in contact and to tell us when Louis DiBono was
3 coming.

4 Q Who had the radio in your car?

5 A Charles.

6 Q What happened after you got to the parking spot?

7 A We parked the car nose in and I don't know how long we
8 waited but Louis DiBono pulled up with his car and nosed it in
9 to another spot.

10 Q Did anything -- did you get a call on the radio from
11 Bobby Borriello?

12 A He said he was coming, yes. I don't know what was said,
13 I can't remember.

14 Q What was the purpose of the call?

15 A To let us know he was coming.

16 Q What was the reaction inside your car after Borriello
17 said that DiBono was on the way?

18 A Tense.

19 Q So, what happened next after that call was received?

20 A Everybody tensed up and then Louis DiBono pulled up.

21 Q What kind of car was he driving?

22 A He was driving a blue Cadillac but it was the smaller one
23 than we had, there were two Cadillacs at the time.

24 Q How many people were in DiBono's car?

25 A No one.

1 Q Just DiBono?

2 A Just DiBono.

3 Q Could you see him?

4 A Yes.

5 Q Where did DiBono's car go?

6 A It pulled into a spot nose in.

7 Q Where was the spot in relation to where you were parked?

8 A Three or four spots over.

9 Q In front of you or behind you?

10 A Well, this is our car, this is his car (indicating). So,
11 it was -- if it is me, it is behind, it is over there.

12 Q Three or four spots over?

13 A Yes.

14 Q To your left?

15 A That's correct.

16 Q What does nose in mean, when you say a car is parked nose
17 in?

18 A Well, if the parking -- you know, the two yellow lines
19 are here, you pull in nose in.

20 Q That means you pull the car forward as opposed to
21 reversing?

22 A Yeah, you're looking at cement wall.

23 Q What happened as DiBono pulled into his spot?

24 A Everybody got tensed up.

25 Q What happened after that?

1 A Charles got out of the car.

2 Q Where did he go?

3 A Behind a pole.

4 Q I'd like to show you what's been marked as Government
5 Exhibit 32.

6 Have you seen this before?

7 A Yes.

8 Q When did you see it?

9 A Two days ago.

10 Q Did you see it with me when we were preparing to testify?

11 A That's correct.

12 Q And what is this?

13 A It is a close diagram of the World Trade Center parking
14 lot.

15 Q And is this a fair and accurate depiction of the parking
16 lot as you remember it that day?

17 A It is fair, yeah.

18 Q Is it an exact reproduction of the packing lot?

19 A I would have no way to tell that, I don't know.

20 Q Will this diagram help you explain who was where and what
21 happened?

22 A Yeah, I guess it will.

23 MR. BURLINGAME: Move to admit Government
24 Exhibit 32.

25 THE COURT: Admitted.

1 (Government Exhibit 32 received in evidence.)

2 MR. BURLINGAME: Now, I'd ask you to step off the
3 witness stand and come down so you can explain to the jury
4 using the diagram when we go through the questions.

5 THE COURT: Step down.

6 (Witness steps down.)

7 Q Now, you testified you were in a gray Cadillac with the
8 defendant and the guy named Harpo. Can you show us where that
9 is on the diagram.

10 A (Indicating.)

11 Q And you said the car was parked nose in. Can you just
12 draw a little arrow showing which direction the car was
13 facing.

14 A (Indicating.)

15 Q And you testified the man you later learned was DiBono
16 was driving a blue Cadillac?

17 A (Indicating.)

18 Q And have you just -- what did you just draw on the
19 diagram?

20 A LD.

21 Q Is that the spot where Louis DiBono was sitting in the
22 blue Cadillac?

23 A That's correct.

24 Q You drew an arrow on the diagram as well?

25 A That's nose in.

1 Q I'll ask you to step back a little bit so that all the
2 jurors can -- you can stand here.

3 A I'd rather stand here.

4 Q Now, you testified that DiBono was parked a few spots
5 over. Do you remember exactly how many spots over he was
6 parked from you?

7 A No.

8 Q To the best of your recollection, how many spots over was
9 he?

10 A That's pretty fair and accurate, three, four.

11 Q And the car -- so, the car you were in was diagonal from
12 DiBono's car?

13 A That's correct.

14 Q Okay. Now, I'm going to walk away from you and I want
15 you to tell me to stop when I'm about as far away -- and where
16 were you sitting in this car?

17 A Just the way I am right now.

18 Q Let's draw -- can you put your initials in the spot where
19 you were sitting.

20 A (Indicating.)

21 Q Where was Harpo sitting?

22 A (Indicating.)

23 Q And where was the defendant sitting?

24 A (Indicating.)

25 Q Okay. Now, I want you to -- I'm going to --

1 THE COURT: Describe that.

2 MR. BURLINGAME: The defendant -- I mean the witness
3 has placed initials in the car, he's written Harpo on --

4 Q Is it fair to say this is the driver's seat?

5 A Yes.

6 Q Charles, is that the passenger seat in the front?

7 A That's correct.

8 Q And then you did KM, is that you?

9 A Yes.

10 Q And that's the seat directly behind the driver's seat?

11 A That's correct.

12 Q Now, I'm going to walk away from you and I want you to
13 tell me to stop when I'm approximately the distance that you
14 were from this blue Cadillac. Keep your eye on me.

15 (Pause.)

16 A That's it.

17 Q About this, about 20 feet?

18 A Approximately. It wasn't that far.

19 THE COURT: 30 feet.

20 THE WITNESS: But I had to look behind me so I was
21 looking that way so you'd have to go over there somewhere to
22 be accurate.

23 Q But this is approximately the distance?

24 A Yeah, but more like where that guy with the beard. Come
25 in closer. That's good.

1 Q About this?

2 A Yeah.

3 MR. BURLINGAME: About 25 feet, Judge?

4 THE COURT: 30 feet.

5 MR. BURLINGAME: 30 feet.

6 Q Now, you testified that after DiBono pulled into the spot
7 the defendant got out of the passenger seat where he was
8 sitting and hid behind a pole; is the pole shown in this
9 diagram?

10 A (Indicating.)

11 Q Can you just write "pole" where the pole is shown.

12 A (Indicating.)

13 Q And you drew a little circle next to the diagram. What
14 does that signify?

15 A That's the pole that he hid behind.

16 Q Okay. And you drew a little stick figure. What's that
17 signify?

18 A (Indicating.)

19 Q And you just labeled the stick figure Charles. Does that
20 signify that's the defendant hiding behind the pole?

21 A Correct.

22 Q Now, did you watch the defendant as he got out of the
23 car?

24 A I -- yeah, I seen him go like that.

25 Q At that time did you know if he had a gun on him?

1 A I did not.

2 Q How long did the defendant stay behind this pole?

3 A Not long, 10, 15 seconds until he got out of the car and
4 spun his legs on the floor to get out of the car.

5 Q And was there anything obstructing your view from here in
6 in your car to where DiBono was?

7 A No.

8 Q Okay. So, explain what happened step by step.

9 THE COURT: Go back to where he said he swung his
10 legs out, indicate who swung his legs out.

11 Q Who swung their legs out of the car?

12 A Louis DiBono was a big guy, so he opened the car door and
13 he doesn't get out like a young person would, he swung his
14 legs around flat.

15 Q Okay. And what happened when Louis DiBono swung his legs
16 around and got out of the car?

17 A Charles went over to him and got on top of him.

18 Q From your view, what was he doing?

19 A It seemed like he was fighting with him and --

20 Q Who was?

21 THE COURT: Give names please.

22 Q Yeah, if you could just use names instead of he and him
23 to the degree you can remember; who was it that was hitting
24 DiBono?

25 A Charles was fighting with DiBono.

1 Q And you testified that you saw him hitting him?

2 A Yes, correct.

3 Q And you demonstrated that it looked like this?

4 A Yes.

5 Q Signifying sort of a downward punching motion?

6 THE COURT: By whom.

7 Q By the defendant?

8 A By Charles Carneglia.

9 Q Did you hear anything?

10 A I heard, I thought it was hitting in the head but it was
11 popping sounds like you would hit somebody in the head.

12 Q What were you doing at this point?

13 A I was watching.

14 Q What was Harpo doing?

15 A Spinning around watching also.

16 Q In the diagram can you draw a number 1 in the spot where
17 you saw the defendant assaulting Louis DiBono?

18 A So, I'm drawing a 1?

19 Q Yeah?

20 (Pause.)

21 THE COURT: And that's next to?

22 MR. BURLINGAME: Next to DiBono's car.

23 THE COURT: On which side?

24 MR. BURLINGAME: On the driver's side right where he
25 would get out of the car.

1 Q What happened after you saw the defendant hitting DiBono?

2 A He fell down in the car.

3 Q Who fell down in the car?

4 A Louis DiBono fell down.

5 Q What happened then?

6 A And then Charles was trying to close the door, put his
7 feet back in the car and close the door.

8 Q What happened next?

9 A He couldn't.

10 Q So what happened next?

11 A So I ran over and I pulled my sleeves up and I put his
12 two feet in the car.

13 Q Why did you pull your sleeves up?

14 A So I wouldn't touch nothing.

15 Q And when you say you put his feet in the car, what did
16 you do?

17 A I pushed his feet into the seat.

18 Q Can you explain what the problem was with getting his
19 legs -- his feet into the car?

20 A Because he was big.

21 Q Just take us through step by step what happened.

22 A He was closing his feet and the door wouldn't -- he
23 couldn't get the door closed.

24 Q Who couldn't get the door closed?

25 A Charles.

1 Q And so, what did you do?

2 A I went over and I helped lift the feet up and put it in.

3 Q And when you lifted the feet up and put them in were you
4 able to get them into the car?

5 A I did.

6 Q How did you do that?

7 A I pushed them into the seat.

8 Q And can you explain how the feet were pushed into the
9 seat?

10 A Well, he was laying sideways so I just pushed him this
11 way (indicating).

12 Q Indicating that they were -- his feet were behind him
13 bent at the knee?

14 A Correct.

15 Q And he was -- you said he was facing sideways; was his
16 face facing the front of the car?

17 A Toward the glove compartment.

18 Q And so, if DiBono's feet were behind him, were the feet
19 in between his leg and the seat?

20 A They were just like this (indicating).

21 Q Jammed in behind him?

22 A Yes.

23 Q Was the defendant able to close the car door?

24 A Yes.

25 Q So, just to be clear, just explain one more time what

1 position you left DiBono in in the car?

2 A What position -- here, hold this.

3 Q Actually --

4 A Do you want me to lay down and show you?

5 Q We've got some chairs here.

6 MR. BURLINGAME: Evan, if you could move the board.

7 A Just like this (indicating).

8 Q That's the position you left DiBono in?

9 A Correct.

10 Q And could you just sit up and show us the different
11 positions that DiBono was in while you were watching him. How
12 did he start off?

13 A Just like this, started -- this is the driver's seat.

14 Q He turned and put his feet on the ground to get out of
15 the car?

16 A Correct.

17 Q And then what happened to him?

18 A And then he fell down this way.

19 Q Why did he fall down that way?

20 A I guess he got shot.

21 Q And then the defendant was trying to close the car door?

22 A Correct.

23 Q But he couldn't get his feet into the car and close the
24 door simultaneously?

25 A At the same time, yes.

1 Q So you came over and helped?

2 A Yes.

3 Q And you jammed his feet back in between him and the seat?

4 A Yes.

5 Q And then the defendant was able to successfully close the
6 door?

7 A Yes.

8 Q And if you could just one more time show the position
9 that DiBono was in when you left him.

10 A (Indicating.)

11 MR. BURLINGAME: I'll just describe for the record
12 that the witness' body if he was in a car seat would be facing
13 the dashboard, the feet are jammed up between the driver's
14 seat and the defendant -- I mean the witness' thighs.

15 Q And is this where the door would be right here?

16 A Yes.

17 MR. BURLINGAME: Right on the other side of the
18 door.

19 Thank you. You can retake the stand.

20 (Witness resumes the stand.)

21 Q Now, you stated that when you went over to help the
22 defendant put DiBono's feet into the car you pulled your
23 sleeves up over your hands, why did you do that?

24 A So I didn't touch nothing.

25 Q Do you know if the defendant took any similar steps?

1 A I don't remember.

2 Q Why didn't you want to touch anything?

3 A Leave fingerprints.

4 Q Can you describe DiBono's physical appearance?

5 A Overweight.

6 Q When you saw him was he bloody?

7 A I didn't see no blood.

8 Q Was he making noise or moving?

9 A No.

10 Q At this point when you first saw him did you know if he
11 had been shot?

12 A I didn't no. I did not know.

13 Q What did you do after you stuffed DiBono's legs into the
14 car and the defendant closed the door?

15 A We left, we ran back to the car.

16 Q Who reached the car first?

17 A Me.

18 Q And did you see the defendant get into the car?

19 A Yes.

20 Q What happened when the defendant got into the car?

21 A He put a gun underneath the front seat.

22 Q Could you see the gun?

23 A Quickly.

24 Q Can you describe what you saw?

25 A I just seen a gun go underneath the seat. It looked like

1 it had a long barrel.

2 Q Could you tell what kind of gun it was at the time?

3 A No.

4 Q Did you later learn what kind of gun it was?

5 A Yes.

6 Q When did you learn that?

7 A When we melted it by the junkyard.

8 Q After the crime?

9 A Correct.

10 Q What kind of gun was it?

11 A It was a .22 or a .25 with a silencer on it, screwed on
12 silencer.

13 Q What happened after the defendant put the gun under the
14 seat?

15 A They had radio contact and there was a problem.

16 Q What was the problem?

17 A Bobby didn't -- I didn't really understood at the time
18 but I don't know if it -- he didn't want the body to be left
19 there.

20 Q What was Bobby saying?

21 A Take it with you.

22 Q What happened?

23 A We all looked at each other and nobody was going to be
24 able to get in that car and do anything.

25 Q So, what did you do?

1 A We left.

2 Q Did the defendant say anything while you were leaving?

3 A I'm dead.

4 Q What did you understand that to mean?

5 A That he did something wrong.

6 Q Did you understand who he thought he would be in trouble
7 with?

8 A John Gotti, Sr.

9 Q What was John Gotti, Sr.'s position in the Gambino family
10 at that time?

11 A Boss.

12 Q Now, to get into the garage did you need a parking
13 ticket?

14 A I believe you did. I know we paid on the way out, I
15 don't remember grabbing one on the way in.

16 Q What was going through your mind while you were paying
17 the ticket on the way out?

18 MS. SHARKEY: Objection.

19 THE COURT: I'll allow it.

20 A While you're touching the paper you could leave a
21 fingerprint and usually when you go to pay a toll they have
22 cameras, so I wasn't worried because I was in the back seat
23 with tinted windows but the guy Harpo rolled his window down
24 and paid it.

25 Q Where did you go after you left the World Trade Center?

1 A Went to Charles's mother's house.

2 Q Did the defendant live with his mother at that time?

3 A He did.

4 Q Do you remember the exact address?

5 A 163-27 85th Street.

6 Q Did anyone say anything to you about what happened in the
7 World Trade Center after you got back to the defendant's
8 mother's house?

9 A After we got out of the car Bobby made a phone call and
10 then gave me a speech about nobody knows I was there, don't
11 tell nobody, you'll end up like Louis DiBono, just forget
12 about it, don't tell nobody you were there, deny it and I
13 think somebody was coming so we went down the block to -- me
14 and Charles went down the block with the gun.

15 Q Where did you go with the gun?

16 A We went to some lady's house that we had a box in her
17 garage.

18 Q When Bobby told you nobody knew who was there, who was he
19 referring to?

20 MS. SHARKEY: Objection.

21 THE COURT: You may answer.

22 A To anybody that, you know, nobody knows except us.

23 Q That who was involved?

24 A That I was there.

25 Q Now, you testified that -- what happened after the

1 conversation with Bobby Borriello?

2 A We walked to the garage.

3 Q Which garage?

4 A The garage across the street.

5 Q Who is "we"?

6 A Me and Charles.

7 Q What did you do in the garage across the street?

8 A We put the gun in a box.

9 Q What kind of a box?

10 A It was a gray steel box.

11 Q Whose garage was this?

12 A It was some lady on the block.

13 Q Do you know her name?

14 A Carol Carrington.

15 Q Why were you able to use her garage?

16 A We helped her out with a problem that she had and I was
17 hanging out with her.

18 Q What do you mean you were hanging out with her?

19 A I used to go by her house and hang out.

20 Q Where was her house located?

21 A Across the street.

22 Q From the defendant's mother's house?

23 A Correct.

24 Q Did Carol Carrington know that you and the defendant were
25 storing guns in her garage?

1 A No.

2 Q She did not?

3 A No.

4 Q After you hid the gun what did you do?

5 A We left the garage and we started walking back and then
6 John Junior was standing in front of Charles's house so I
7 walked across the street and Charles went into the house with
8 Junior Gotti.

9 Q What did you do after you walked across the street?

10 A I got in my car and left.

11 Q How did this murder affect you?

12 A I was upset and angry at the same time.

13 Q Why were you upset?

14 A I was upset, I didn't need to be there, and I was angry
15 that I was there.

16 Q Were you angry with the defendant?

17 A I was.

18 Q Did you yell at him or take any other action against him?

19 A No.

20 Q Why not?

21 A I just wouldn't do it, I don't want to end up like Louis
22 DiBono.

23 Q Was DiBono's murder reported in the newspapers?

24 A It was.

25 Q How long after?

1 A A couple of days.

2 Q Now, you testified the defendant was worried that he was
3 going to be in trouble with John Gotti, Sr.; did you see the
4 defendant with Gotti Senior after the murder?

5 A Yes, we would go to the club every Saturday, so the
6 following Saturday John Gotti was walking in the club and me
7 and Charles were turning the corner and he seen Charles and he
8 backed out his door and he gave him a big hello and kiss and
9 everything.

10 Q Was it the normal greeting that Gotti Senior would give
11 Charles?

12 A It was not.

13 Q How would you describe it?

14 A Well, maybe cause I knew something so I described it a
15 lot bigger than usual.

16 Q It seemed like an extra big greeting?

17 A And it didn't seem like he was mad at him.

18 Q Which club are we talking about?

19 A Bergin Hunt and Fish Club.

20 Q You said it was a Saturday?

21 A Yes, every Saturday we'd eat --

22 Q How do you know it was a Saturday?

23 A Because we'd eat there every Saturday.

24 Q You testified it was the Saturday following the murder?

25 A Correct.

1 Q Had the story hit the papers at that point?

2 A It did.

3 Q Do you know what month it was when the defendant murdered
4 DiBono?

5 A I'm not sure, end of September.

6 Q Now, you said you originally thought the plan was to
7 kidnap DiBono and bring him in?

8 A Correct.

9 Q At some point did you realize that wasn't the plan?

10 A Yes.

11 Q When did you realize that?

12 A When Bobby said he's coming and nobody said, all right,
13 you grab the radio, I mean the zip-ties and I'll do this or
14 I'll do that, there was just no conversation.

15 Q At that point did you take any steps to get out of it?

16 A I didn't say a word, no.

17 Q What eventually happened to the gun that was used in the
18 murder?

19 A A couple of weeks later we picked it up and we took it to
20 a junkyard.

21 Q Which junkyard?

22 A One of the junkyards on the property of Fountain Avenue.

23 Q What did you do when you got there?

24 A We took the silencer off and we melted it down and
25 disformed the metal.

1 Q How do you melt down a gun?

2 A With a torch.

3 Q What kind of torch?

4 A A big -- two containers, oxygen and acetylene, it gets
5 real hot, blue tip.

6 Q About how long after the murder did you melt the gun
7 down?

8 A Maybe mid-week after we seen John, a week or two, I'm not
9 really positive.

10 Q How long does it take to melt a gun down?

11 A It took a couple of minutes, it heats up and it gets red
12 hot and you just smash it with a hammer and disfigure it, take
13 the shape away from it.

14 Q After DiBono's murder did you receive any presents?

15 A My birthday was October 8th and a couple of weeks later I
16 got a big bracelet, diamond bracelet.

17 Q Diamond bracelet?

18 A Yes.

19 Q Who gave you the diamond bracelet?

20 A Charles, Bobby and John Carneglia.

21 Q Did anyone tell you how much it cost?

22 A Yeah.

23 Q Who?

24 A Charles.

25 Q What did he tell you?

1 A It was 10,000.

2 Q Had you ever gotten a \$10,000 birthday present from the
3 defendant before?

4 A No.

5 Q When was your birthday in relation to the DiBono murder
6 as best as you can recall?

7 A I can't recall, it's not too -- in between, I don't know,
8 close.

9 Q You received this birthday present after the murder?

10 A A couple of weeks after. It wasn't on my birthday that I
11 received it, I guess it took a couple of weeks to make.

12 Q Let me make sure I've got this clear. You got the
13 bracelet a couple of weeks after your birthday?

14 A Correct.

15 Q And that was after the DiBono murder, correct?

16 A Yes.

17 Q Did anything happen to the defendant's position in the
18 Gambino family soon after the DiBono murder?

19 A Yes.

20 Q What?

21 A He was made, a made man of the Gambino family.

22 Q Do you know how he was informed that he was going to get
23 made?

24 A Bobby told him to put a suit on and he took the van and
25 picked up a bunch of guys.

1 Q Who told you that?

2 A I seen Bobby with the van and Charles told me he was
3 suiting up.

4 Q And did he get made before or after he got the big hug
5 and kiss from John Gotti, Sr. after the DiBono murder?

6 A After.

7 Q Do you know where the defendant got made?

8 A At the time I didn't. I found out later.

9 Q How did you find out?

10 MS. SHARKEY: Objection.

11 THE COURT: I'll allow that.

12 A It was Claudia DiPippa's house, Johnny Alite's --

13 THE COURT: Ask him how he found out.

14 Q How did you find out?

15 A Charles told me.

16 Q And explain what happened?

17 A We pulled up to Claudia's many years later, maybe '98, we
18 pulled up to Claudia's house and John Alite was outside.

19 MS. SHARKEY: Objection.

20 THE COURT: I'll allow it.

21 A And Charles and Johnny Alite were talking a little bit
22 and then Alite said, hey, you remember that, it must bring
23 back memories, this basement, and then he said, yeah, and then
24 he drove away and as he was driving he said that's where I
25 got -- he motioned, I don't know if he talked in the car,

1 that's where I got made.

2 Q Who was Claudia DiPippa?

3 A Claudia DiPippa was Alite's girlfriend.

4 Q And who was Alite?

5 A John Alite was an associate in the Gambino family with
6 unique powers.

7 Q When you say the defendant motioned to himself and said
8 that's where he got made, you understood it to mean he got
9 made in Claudia's DiPippa's basement?

10 A Yes, that's where the ceremony took place.

11 MR. BURLINGAME: This could be a good place to stop,
12 Judge.

13 THE COURT: All right, let's break. Be back please
14 at 1:30.

15 (Jury leaves courtroom.)

16 THE COURT: All right. Thank you. Have him back at
17 1:30 please.

18 (Witness leaves courtroom.)

19 THE COURT: Have the defendant in place at 1:30
20 please.

21 (Time noted: 12:28 p.m.)

22 (Luncheon recess taken.)

23 (Continued on next page.)

24

25

1 A F T E R N O O N S E S S I O N.

2 THE COURT: Please bring out the defendant.

3 (Time noted: 1:32 p.m.)

4 THE MARSHAL: Yes, Your Honor.

5 (Whereupon the defendant enters the courtroom.)

6 (Whereupon the witness resumes the stand.)

7 THE COURT: Have them bring in the jury, please.

8 (Whereupon the jury enters the courtroom at 1:34
9 p.m.)

10 THE COURT: Please be seated. Please proceed.

11 MR. BURLINGAME: Thank you, Judge.

12 CONTINUED DIRECT EXAMINATION

13 BY MR. BURLINGAME:

14 Q Before the break you testified that the defendant became
15 a made man in Claudia DiPippa's basement. And that Claudia
16 DiPippa was the girlfriend of John Alite, is that correct?

17 A Yes.

18 Q Now, who was John Alite?

19 A He was an associate in the Gambino family close to John,
20 Junior, Gotti.

21 Q I'm showing you Government Exhibit 2-EE?

22 A John Alite.

23 Q What was the highest position he obtained in the Gambino
24 family?

25 A Associate.

1 Q Who did you say he was primarily under?

2 A He was under John Gotti, Junior.

3 Q I'm showing you Government Exhibit 2-0. Who's that?

4 A John Gotti, Junior.

5 Q What was highest position he obtained in the Gambino
6 family?

7 A Captain and acting boss for a little while.

8 Q Were Alite and John Gotti, Jr., close?

9 A Very close.

10 Q Did they ever have a falling out?

11 A Yes.

12 Q Approximately, when did that take place?

13 A '94, '95. I'm guessing. I'm not positive.

14 Q Following the falling out between Alite and Gotti, Jr.,
15 was Alite ever around the defendant?

16 A Yes.

17 Q Do you know if he was ever officially on record with him?

18 A I don't know. I don't think so.

19 Q Are you aware of Alite getting a gun from the defendant?

20 A Yes.

21 Q What kind of gun?

22 A A machine gun or Uzi or something.

23 Q Was Alite a powerful figure in the Gambino family?

24 A He was. He was an associate who was able to handle John,
25 Junior's, underlings.

1 Q Why did he stay an associate if he was so powerful?

2 A Because he had a pretty powerful position even though he
3 was an associate.

4 Q Why didn't he become a made guy?

5 A He's Albanian.

6 Q You said that the defendant got made soon after the Louie
7 DiBono murder. Did you ever hear the defendant talk about
8 earning his button the old-fashioned way?

9 A Yes.

10 MS. SHARKEY: Objection as to leading.

11 THE COURT: I'll allow it.

12 BY MR. BURLINGAME:

13 Q What did you understand that to mean, to earn his button
14 the old fashioned way?

15 THE COURT: Ask him what he said and then what does
16 it mean, instead of putting the words into his mouth, with
17 respect to that matter.

18 BY MR. BURLINGAME:

19 Q What did the defendant say concerning earning his button?

20 A Well, earning your button is -- the first thing, that's
21 usually to become a made man years ago, you had to participate
22 in a murder to become a made man. As the time went on, you
23 could make a good bowl of spaghetti or drink and they would
24 make you that way. When he said it, he would be having fights
25 with people and they would say oh, he's a drunk or this or

1 that, and that would be his response, I earned my button the
2 old-fashioned way.

3 Q What did you understand that to mean?

4 A Participating in a murder.

5 Q Did he talk about it on more than one occasion?

6 A Yes.

7 Q You testified to this a little bit, but when would it
8 come up?

9 A If he was supposed to meet somebody or show up for an
10 appointment and he didn't, and they'd say oh, he's drunk again
11 or whatever. And that would be his response well, at least I
12 earned my button the old-fashioned way. They got it from
13 cooking a bowl of spaghetti.

14 Q When was the last time you talked with the defendant
15 about the DiBono murder?

16 A In the Nassau County Jail.

17 Q When?

18 A I was remanded in June of 2000. So it was between June
19 and July or August. I'm not exactly sure of dates.

20 Q 2000?

21 A Correct.

22 Q You were in the Nassau County jail at the time?

23 A I was.

24 Q What happened at that visit? Was the defendant in jail
25 too?

1 A He was -- no, he was out.

2 Q So he visited you in the jail?

3 A Yes, he came in as visitor.

4 Q What happened at the visit?

5 A He thought I was cooperating so he said, If you think
6 about cooperating on Louie DiBono, I'll tell them that you did
7 the armored car robbery. Who would they believe? I'm a
8 goodfella and you're nothing. I have more clout, or whatever.

9 Q Did he visit with anybody?

10 A He came with a lawyer, but the lawyer went out to sign
11 out or do something, see another client. He left the room
12 briefly.

13 Q What happened when the lawyer left the room?

14 A That's when he told me he'd been thinking about it.
15 Because at the time, they didn't hold federal inmates in the
16 county jail so everybody was running around the street saying
17 I was a rat. Because they built a new courthouse and the
18 marshals didn't want to drive back and forth to Brooklyn and
19 then bring you to Central Islip court, and then bring you
20 back.

21 So they took -- they made an account with Nassau
22 County jail and they kept all federal inmates there. But I
23 was the first batch of inmates, it was never done before. The
24 only time they put you in a county jail was when you were
25 cooperating. So everyone was running around saying, Why

1 wasn't he in MDC.

2 Q And what's MDC?

3 A MDC is a federal correctional facility.

4 Q So your understanding was that suspicion had fallen on
5 you because they thought you were a rat because you were in
6 county jail?

7 A They thought they moved me for protection to keep me
8 safe.

9 Q And typically, at that time county jails were used to
10 segregate cooperating witnesses?

11 A Correct.

12 Q What district is the Central Islip Courthouse in?

13 A It's in the -- it's the same district as the Eastern
14 District. But if you commit a crime out in Long Island, you
15 go to the Central Islip Courthouse. So the Eastern District
16 in Long Island.

17 Q Now, you said that he went on the visit with Ron
18 Rubinstein. That was a lawyer?

19 A Correct.

20 MS. SHARKEY: Objection. That wasn't the testimony.
21 Leading and testifying.

22 THE COURT: Well, you can examine him. I'll allow
23 it to stand.

24 MR. BURLINGAME: Thank you, Judge.

25 Q You testified that he visited with Ron Rubinstein?

1 A That is correct.

2 MR. FARBER: The lawyer's name was not given by the
3 witness. It was given by the prosecutor just now.

4 THE COURT: Well, ask him about it.

5 BY MR. BURLINGAME:

6 Q Who was the lawyer who visited you?

7 A Ron Rubinstein.

8 MR. BURLINGAME: I apologize, Judge. I believe I
9 elicited it.

10 Q Who was Ron Rubinstein's law partner?

11 A Joe Corozzo.

12 Q Was he related to any Gambino family members or
13 associates?

14 A He's the son of JoJo Corozzo.

15 Q Does JoJo Corozzo have any other family members part of
16 the Gambino family?

17 A Nicky Corozzo is his uncle, the one on the board.

18 Q I'm showing you Government Exhibit 2-F. Who's that?

19 A That's JoJo Corozzo.

20 Q What's the highest position in the Gambino family that he
21 obtained?

22 A I think he got to captain, and maybe even higher than
23 that. I'm not really positive.

24 Q Captain for him?

25 A Yeah, that I remember.

1 Q You testified earlier that the defendant went to the
2 Bergen Hunt and Fish Club on Saturdays. You know what the
3 Ravenite is?

4 A The Ravenite is the Gambino family headquarters in
5 Manhattan.

6 Q Did you know the defendant to go to the Raven Night
7 often?

8 A Not often, no.

9 Q What was your understanding why he didn't go more
10 frequently?

11 MS. SHARKEY: Objection. Foundation.

12 THE COURT: I'll allow it.

13 A He wasn't made at the time when John was going there. He
14 got made in-between October and November, December. And then
15 John got arrested so he didn't have enough time.

16 BY MR. BURLINGAME:

17 Q Do associates go to the Ravenite often?

18 A No, but they did go once in a while. Yes.

19 Q Did you ever go?

20 A I did.

21 Q You said that you were also involved in an armored car
22 robbery with the defendant?

23 A Correct.

24 Q Is that the only armored car robbery that you ever took
25 part in?

1 A No, it is not.

2 Q How many actual armored car robberies were you involved
3 in altogether?

4 A Three.

5 Q How many did you do with the defendant?

6 A Two.

7 Q Where did the three armored car robberies you committed
8 take place?

9 A Queens Boulevard, JFK, and one by Western Beef in
10 Brooklyn.

11 Q What's Western Beef?

12 A It's a big supermarket-type place.

13 Q You testified earlier that a driver was killed in the
14 robbery that took place at JFK, is that correct?

15 A That's correct.

16 Q Was anyone injured in any of the other robberies?

17 A They were not.

18 Q Who took part in the Queens Boulevard robbery?

19 A A bunch of people.

20 Q Can you name some of them?

21 A Michael Finnerty, Frankie Lap, Peter Tex, George Locastro
22 and myself.

23 Q Was that robbery successful?

24 A Yes.

25 Q How much money was taken?

1 A Not -- roughly 180,000. I'm guessing. I don't remember.

2 Q What was your take from the robbery?

3 A Thirty-something thousand. 33.

4 Q How was the money stolen?

5 A The truck was left -- how do you say -- unmanned. Nobody
6 was in it. They left the truck. We drove up with another van
7 and we drilled out the lock, opened it up and took the bags
8 and left.

9 Q What was your role in that robbery?

10 A I was in the van. I don't remember. I think Michael
11 Finnerty drove it.

12 Q Who took part in the robbery near the Western Beef in
13 Brooklyn?

14 A Me, Charles, Keith and George Locastro.

15 Q When you say Keith, who are you talking about?

16 A Keith Pelligrino.

17 Q When you say Charles, who are you talking about?

18 A Carneglia.

19 Q Was that robbery successful?

20 A It was.

21 Q How much was taken?

22 A I think close to the same amount.

23 Q What was your take?

24 A Close to the same amount.

25 Q What was the defendant's take?

1 A Thirty-something thousand.

2 Q How did that robbery take place?

3 A I think George had a tip that a van pulled up in a
4 commercial area, and they walked across a big parking lot. So
5 we pulled up with a van. And as they got out of the van and
6 walking, we jumped out with shotguns and told them to lay
7 down. We took the bags and left.

8 Q What did you do in that robbery?

9 A I held the shotgun and jumped out of the van.

10 Q Did you point the shotgun at the guard?

11 A Yeah, I did. Or close to the floor. I'm not really
12 sure. I had a point blank bulletproof vest on so it was a
13 little spooky.

14 Q What was the defendant's role in that robbery?

15 A He was floating around the area with a radio.

16 Q What does that mean to be floating around the area?

17 A He was in the brown Cutlass Ciera seeing if any cops were
18 coming or anybody looking. Or if any cop that was coming.

19 Q What was he supposed to do if a cop was coming?

20 A Radio us and let us know. We had a stolen van at the
21 time.

22 Q Let's turn to the armored car robbery at JFK that ended
23 up in the murder of the driver. How long prior to the murder
24 did you start working on the robbery?

25 A About a year.

1 Q How did you first hear about robbing this armored car?

2 A Ronnie DeConza.

3 Q The same Ronnie DeConza you did the jury tampering with?

4 A Yes.

5 Q The same Ronnie DeConza who was in the Hamptons following
6 John Carneglia's conviction?

7 A Yes.

8 Q What did he tell you?

9 A He told us that an armored car was sitting at JFK
10 unmanned. It was a lot of money, gold barrels and cash. And
11 that we could open it up and drive away with it.

12 Q Why did DeConza tell you about the robbery?

13 A I asked him to go on something and he took me.

14 Q Did DeConza have a plan as to how you were going to rob
15 the armored car?

16 A Yes.

17 Q What was it?

18 A I would pick the lock and then just jump in it and drive
19 it away. And then we would go somewhere by -- outside
20 Rockaway Boulevard by the warehouse areas and just unload it.

21 Q What was your role?

22 A I was going to pick the lock. It was sitting un- -- you
23 know, it was just sitting there running with the keys in it.

24 Q What were you going to do after you picked the lock?

25 A Drive it away.

1 Q What was your understanding as to why DeConza gave you
2 that job?

3 A Because I used to pick locks on cars and things like
4 that.

5 Q Because of your work as a car thief?

6 A Correct.

7 Q Did Ronny DeConza have a crew together to do the robbery?

8 A Yes.

9 Q Who was the crew?

10 A Pete from Staten Island, Frankie, myself. And he had two
11 other guys.

12 Q Do you know Frankie or Pete's last name?

13 A I do not.

14 Q Did you meet with this crew?

15 A Yes. Every Friday.

16 Q Where did you meet with them the first time?

17 A JFK, the parking lot.

18 Q What time?

19 A The truck pulled up at 5:00. Probably around 4:30.

20 Q 5:00 in the afternoon?

21 A 5:00 in the morning. And we got there a little early and
22 put hats on and stuff.

23 Q You said it was Friday. How do you know it was a Friday?

24 A Because that's when the truck always came, every Friday.

25 Q Did DeConza give you anything to wear during the robbery?

1 A American Airlines hats.

2 Q Why?

3 A Because it was -- it wasn't a terminal where passengers
4 take off. It was more like a place where they go to work.

5 Maybe they worked on the runways and stuff. So they're all
6 walking around with blue jackets and American Airlines hats.

7 Q Who's they?

8 A Anybody that worked there would be walking around the
9 parking lot.

10 Q Did other members of the robbery crew wear American
11 Airlines hats too?

12 A They did.

13 Q Where did the hats come from?

14 A Ronnie DeConza.

15 Q Did you end up robbing the armored car with Ronnie
16 DeConza and his crew?

17 A We did not.

18 Q Did you and Ronny DeConza make many attempts to rob the
19 armored car?

20 A Yes. I couldn't open the door. One time I came close
21 and the guards were coming, but it didn't work out.

22 Q How many attempts would you say you made?

23 A I don't remember. Ten.

24 Q Over what period of time would you estimate that you and
25 DeConza and that crew were attempting to rob the armored car?

1 A A couple of months.

2 Q Did the defendant participate in any of those attempts?

3 A He came.

4 Q How many times did he come along?

5 A Only a couple, because he had a fight with Ronny. And
6 that was the end of that.

7 Q What was his role when he came along?

8 A Just drive around.

9 Q And again, what was the purpose in driving around?

10 A See who's looking and see if a cop's coming.

11 Q What did he have --

12 A He had a radio. I had a radio. Everybody had radios.

13 Q Did there come a time when DeConza no longer wanted to
14 participate in the robbery?

15 A Correct.

16 Q Why did that happen?

17 A He had a fight with Charles.

18 Q Did a new group of people start?

19 A Yes.

20 Q Who was in the next group?

21 A Me, Charles, Frankie Lap, Peter Zuccaro, Peter Tex and
22 Michael Finnerty.

23 Q What was this new group trying to do?

24 A There was a different -- it was a different plan.

25 Q What was the object of the plan?

1 A To take the truck or take the guard and then take the
2 truck.

3 Q To rob the same armored truck?

4 A Yes.

5 Q DeConza was no longer participating?

6 A He was not.

7 Q Who was in charge this time?

8 A Peter Zuccaro.

9 Q Why?

10 A He had experience.

11 Q Didn't you also have experience based on the Western Beef
12 and the Queens Boulevard armored robberies?

13 A I don't know when the Western Beef happened. The one on
14 Queens Boulevard happened way after that, '93 or '4.

15 Q You said this crew had a different plan to carry out the
16 robbery?

17 A Yes.

18 Q What was the new plan?

19 A The plan was to -- they were all in a van, and they would
20 pull behind the truck and they would grab the guards and put
21 them in the van and take over the truck.

22 Q Were you still going to use the hats?

23 A Yes, we used the hats.

24 Q How did this group get a hold of the hats?

25 A From me.

1 Q How did you get a hold of the hats?

2 A I had them from Ronny.

3 Q What was your role going to be in this robbery?

4 A I was -- Charles in one car, I was in another car
5 floating around. Same thing, looking for cops or whoever, if
6 someone was standing watching.

7 Q When would you go to rob the armored car?

8 A When would we go? The same time, close to the same time.

9 Q What day of the week?

10 A Friday.

11 Q With this new group, did you successfully rob the armored
12 car the first time you went to the airport?

13 A No.

14 Q Did you go more than one time?

15 A Yes.

16 Q How many times, approximately, would you say this group
17 went?

18 A I would say, again, eight or ten. It seemed like
19 forever.

20 Q Would the group meet anywhere before heading over to the
21 airport?

22 A We would.

23 Q Where?

24 A My apartment in Lindenwood.

25 Q What would happen at your apartment?

1 A We would get dressed and put hats on and jackets and
2 stuff. Get the radios. Gear up, I guess you could call it.

3 Q You testified why you put on the hats. Why would you put
4 on the other gear?

5 A The other gear?

6 Q You said you put vests on?

7 A Well, no. To match them. Not bulletproof vests. Just
8 blue windbreakers because that's what people wore.

9 Q People were wearing at this American Airlines building
10 where the armored car was going?

11 A Correct. So if they saw you sitting in a van, you looked
12 like them. You had American Airlines hats and blue uniform.

13 Q Why would the group meet at your apartment?

14 A I lived a couple of minutes from the airport and nobody
15 was home; no wife or kids running around. So people were
16 married with kids and stuff so they couldn't get dressed over
17 there.

18 Q At any point during the period this group was attempting
19 to rob the armored car, did you take any steps to figure out
20 what was inside it?

21 A I did.

22 Q What did you do?

23 A I jumped on the truck with a Camcorder and bright light
24 and I just filmed the back of it.

25 Q Do you still have the videotape?

1 A No.

2 Q Did you ever watch it with anybody?

3 A I think I watched it with Peter Zuccaro and a bunch of
4 people.

5 Q Do you know what happened to the videotape?

6 A I probably destroyed it.

7 Q Do you know why?

8 A I didn't want to leave it laying around as evidence of
9 the armored car robbery.

10 Q Did anyone in this group ever follow the armored car
11 beyond JFK?

12 A A bunch of us did, yeah. We went upstate.

13 Q Did you go anywhere else?

14 A We went to -- we followed it from JFK to LaGuardia to
15 upstate somewhere.

16 Q What was the purpose of following it to other places?

17 A To see if it was in a better spot, without -- not so much
18 traffic to grab the guard.

19 Q Better spot to do the robbery?

20 A Correct.

21 Q Did the LaGuardia Airport turn out to be a good place to
22 do the robbery?

23 A It did not.

24 Q Why not?

25 A It was too busy.

1 Q You said that you went upstate, out of the city?

2 A Somewhere, yes. I'm not really good with directions.

3 Q You remember who went with you?

4 A I think Peter Zuccaro and Frankie Lap. Maybe Charles,
5 but I'm not positive.

6 Q Do you remember how far out of the city that you drove?

7 A A couple of hours. An hour and a half or two hours,
8 maybe. I'm not really positive.

9 Q Did you find a good place out of the city?

10 A We actually lost it as we were driving. We got tired of
11 it or whatever. It just kept going. I don't even know what
12 happened.

13 Q Did this second group eventually rob the armored car?

14 A They did not.

15 Q How many attempts would you say the second group made?

16 A Probably ten, again.

17 Q Over what period of time?

18 A A couple of months.

19 Q Did the time of year have any effect on the plan to rob
20 the armored car?

21 A Yes.

22 Q How so?

23 A If it was cold out people wouldn't hang out by their cars
24 or hang out where the armored car would pull up. The cold was
25 better because everybody just went and got out of their car,

1 they just walked inside. They didn't hang out and smoke
2 cigarettes. So the cold is what we need.

3 Q And why was it advantageous to you not having people
4 outside hanging around smoking cigarettes.

5 A So we could do the robbery without anybody seeing.

6 Q Did there come a point of time when the group of people
7 planned to rob the armored car changed again?

8 A Yes.

9 Q Why?

10 A People weren't happy with other people. Charles, I
11 think, crashed one of the cars or something that he was
12 floating around in.

13 Q What state was he in when he crashed the car?

14 A Drunk.

15 Q Who was upset with the defendant's performance?

16 A Frankie Lap.

17 Q Anyone else?

18 A Peter Tex.

19 Q Who dropped out of the group?

20 A Frankie Lap, Peter Tex. And I don't know if Michael
21 Finnerty left and then came back, but I know the group
22 changed.

23 Q Now, if the defendant is causing the problems by being
24 drunk, why wasn't he the one that was asked to leave?

25 A It wasn't going to happen.

1 Q Why is that?

2 A Because you just wouldn't tell him that.

3 Q Did a new group form to rob the armored car?

4 A It did.

5 Q Who was in the new group?

6 A Peter Zuccaro, Danny Fama and two other guys that Danny
7 Fama brought along. I'm not really sure who they were.

8 Q Was the defendant still in that group?

9 A He was. I believe Michael Finnerty was, too, also.

10 Q Did this group stick to the same plan as the prior group?

11 A Yes.

12 Q They wore the hats?

13 A Yes.

14 Q Met at your house?

15 A Correct.

16 Q Went on Friday?

17 A Every Friday, yes.

18 Q 4:30 or 5:00 in the morning?

19 A Yes.

20 Q Did this group make multiple attempts to rob the armored
21 car?

22 A Yes.

23 Q Were any of these attempts successful?

24 A No.

25 Q Why not?

1 A The same thing happened again and it disbanded.

2 Q What was the same thing that was happening?

3 A Charles was -- I don't know, somebody said a cop came by
4 and he didn't see it. Or he was drinking or something. And
5 that was the end of that.

6 Q Did the defendant ever complain about the robbery not
7 happening?

8 A Yes.

9 Q What did he say?

10 A He said we spent all that time, we're stupid to let it
11 go.

12 Q Did he say anything about the robbery not taking place
13 during the attempts on the car?

14 A He was getting frustrated. Like, what's going on, what's
15 the problem, because he was sitting blocks away and not in the
16 van.

17 Q How many attempts did this group make on the armored car
18 before it disbanded?

19 A There might have been a break in-between because it was
20 this, you know, warm weather. And then probably started up in
21 October, so I would say another -- or September, another five,
22 eight times or something. I'm not good on figures.

23 Q Any of them successful?

24 A None.

25 Q What happened to that group?

1 A They disbanded.

2 Q Was a fourth group formed?

3 A The fourth group, no.

4 Q That was it?

5 A That was it.

6 Q Approximately, when, to the best of your recollection,
7 did this last group break up?

8 A By Thanksgiving.

9 Q What year?

10 A Of 1990.

11 Q Did the defendant say --

12 THE COURT: When in 1990, please, if you can fix it?

13 THE WITNESS: Thanksgiving of 1990. The 26 or 27th.

14 I don't know when Thanksgiving was.

15 BY MR. BURLINGAME:

16 Q Late November?

17 A Correct.

18 Q Did the defendant say anything to you about the decision
19 to give up the plan to rob the armored car?

20 A He said it was a shame to let it go.

21 Q If everyone had given up on the plan to rob the armored
22 car by Thanksgiving of 1990, how did it come about that you
23 ended up robbing the armored car?

24 A Charles came to my house at 4:30 or a quarter to 5:00,
25 Let's go over there and do that, or something to that effect.

1 Q How long this was after the last group split apart?

2 A A couple of weeks.

3 Q Did you know he was coming by that morning?

4 A I did not.

5 Q Tell the jury what happened?

6 A He came by at 4:30, a quarter to 5:00 about. He said,
7 Let's go over there and do that or pass over there, or
8 something to that effect. So we put the hats on and I went
9 outside and I got in the car. I'm not positive what kind of a
10 car. I think it's a brown Cutlass Sierra. I drove. He was
11 on the passenger side and Bobby Borriello was in the back
12 seat. And as I was driving I said oh, what's up Bobby. He
13 said, What makes you think that's Bobby? Because Bobby had a
14 Dickie thing on, and a hat. You know, the thing like the
15 sweater thing. I don't know what you call those things.

16 Q Explain what a Dickie is, as best you can.

17 A Like a turtleneck without the turtle, without the
18 sweater.

19 Q So it's a certain muffler that you put around your neck?

20 MS. SHARKEY: Objection to leading.

21 THE COURT: I'll allow it.

22 A Yes.

23 BY MR. BURLINGAME:

24 Q How was he wearing the dickie?

25 A Over his mouth, like this (indicating).

1 MR. BURLINGAME: Let the record reflect that the
2 witness is signifying the Dickie was right under Bobby
3 Borriello's nose.

4 THE COURT: Yes.

5 BY MR. BURLINGAME:

6 Q Is this same Bobby Borriello who was involved in the
7 Louie DiBono murder at the World Trade Center?

8 A Correct.

9 Q You said that you and the defendant and Bobby Borriello
10 got into what you believed was a brown Cutlass Sierra?

11 A Yeah. I'm not positive.

12 Q Who sat where?

13 A I sat in the driver seat, Charles in the passenger seat
14 and Bobby in the back.

15 Q And you said when you got in the car you said something
16 to Bobby. What was that?

17 A I said hey, Bobby, you know, what's up or whatever.

18 Q What did he say back?

19 A He didn't say nothing. Charles said, What makes you
20 think that's Bobby. Just drive the car.

21 Q Now, you testified Bobby had a hat on. What kind of hat
22 did he have on?

23 A He had a regular hat. Not American Airlines.

24 Q You did give him an American Airlines hat?

25 A No.

1 Q Who was wearing American Airlines hats that day?

2 A Me and Charles.

3 Q What happened after you got into the car?

4 A I drove to the airport?

5 Q Was there any discussion about how the robbery was going
6 to take place on the way there?

7 A No.

8 Q Did the defendant and Bobby Borriello have weapons on
9 them?

10 A They did.

11 Q What weapons did they have on them?

12 A Bobby had a shotgun in the back seat and Charles had a
13 handgun.

14 Q Did you see their guns while you were in the car?

15 A Yes. When they were getting out, I seen it in his lap.
16 And Bobby couldn't hide the shotgun. It was across the back
17 seat.

18 Q So when who was getting out you saw what in his lap?

19 A I seen Charles, when he was leaving the car, he had the
20 handgun in his hand.

21 Q Was it a revolver or a pistol?

22 A It was a pistol.

23 Q What's the difference between a revolver and a pistol?

24 A A revolver is like the old western thing with the round
25 thing that you could spin and a pistol is just flat.

1 Q How do you put the bullets into a pistol?

2 A On the bottom in a clip, I guess.

3 Q When you had done surveillance of the armored car in the
4 past, had you seen the guards carrying bags of money?

5 A I did.

6 Q Do you know if the defendant had seen the guard carrying
7 bags of money?

8 A I don't know.

9 Q Had Bobby Borriello been involved in any of the prior
10 attempts on the armored car?

11 A He was not.

12 Q When you got to the airport, what happened?

13 A I pulled up behind the truck, put enough space to get
14 out. And Charles got out of the car and then Bobby got out.

15 Q When you pulled up, where was the armored car?

16 A It was parked in the front.

17 Q Front of what?

18 A In front of the building.

19 Q Where did you park in relation to the armored car?

20 A Behind it, but off to the side.

21 Q I'm showing you what's marked as Government's Exhibit 92.
22 Have you seen this before?

23 A Yes.

24 Q When did you see it?

25 A Over the weekend.

1 Q What is it?

2 A It's a rough sketch of the scale of the American Airlines
3 parking lot.

4 Q Using this diagram, will it be able to help you explain
5 what happened at the American Airlines building that day?

6 A Yes.

7 MR. BURLINGAME: I move to admit Government Exhibit
8 92.

9 THE COURT: Admitted.

10 (So marked as Government's Exhibit 92 in evidence.)

11 MR. BURLINGAME: Permission for the witness to step
12 up to the diagram, Judge.

13 THE COURT: Yes.

14 (Witness approaches the diagram.)

15 BY MR. BURLINGAME:

16 Q Could you draw a box for us -- let's orient ourselves,
17 first, on the diagram.

18 When you would enter the American Airlines parking
19 lot, where would you come in from?

20 A Here (indicating).

21 Q And where would you typically go.

22 A Here (indicating).

23 Q Indicating that you would come in from the bottom
24 left-hand side of the diagram, the white strips to the left of
25 the gray parking lot, take a right. And then you would turn

1 around here (indicating) and come back in front of the
2 American Airlines building?

3 A Correct.

4 Q Is that the route that the armored car would typically
5 take?

6 A Every time.

7 Q Now, on the morning that you were just testifying about,
8 can you draw a box approximately where the armored came to a
9 stop?

10 A Here (indicating).

11 Q And if you could just label that armored car.

12 MR. BURLINGAME: It's marked AC, for the record.

13 Q If you could just draw another box to show approximately
14 where you parked your car?

15 A Here (indicating).

16 Q Who was sitting where in your car? So who was sitting
17 where in your car?

18 A I'm here, Charles is here, Bobby Borriello's here.
19 (Indicating.)

20 MR. BURLINGAME: I'll let the record reflect the
21 witness has written his initials in the driver's seat.

22 Q Is that fair to say, that's the driver's side of the car?

23 A Correct.

24 Q Where are the initials CC?

25 A Passenger seat.

1 Q And where are the initials BB?

2 A Bobby Borriello.

3 Q Where is that in the car?

4 A In the back seat.

5 Q So you've got you driving the car. The defendant sitting
6 in the front seat. And Bobby Borriello sitting directly
7 behind him in the back seat?

8 A Correct.

9 Q You testified that when you came up to the armored car --

10 A Maybe not that close, but a little further back.

11 Q Well, how did you park in relation to the armored car?

12 A Just like that (indicating). But enough so I could get
13 out and go.

14 Q The idea was you wanted to be able to pull away without
15 having to back up?

16 A Yes. I don't want to get too close.

17 THE COURT: Before you go any further, put an arrow
18 where you entered the parking lot, please, and trace it all
19 the way around the way the car went.

20 (Witness complies.)

21 MR. BURLINGAME: Let the record reflect that the
22 witness is drawing a dotted line with some arrows on it,
23 starting from the bottom left-hand side of the diagram and
24 cutting horizontally across the diagram and turning around and
25 leading to the spot where you're parked. Have you draw

1 another arrow.

2 Q Is that the route that you took?

3 THE COURT: Put an arrow pointing --

4 BY MR. BURLINGAME:

5 Q Oh, put an arrow in the direction the armored car was
6 pointing and the direction your car was pointing?

7 A Yes.

8 Q All right. And on the way over you saw that Bobby
9 Borriello had a weapon?

10 A Yes.

11 THE COURT: What time was this?

12 BY MR. BURLINGAME:

13 Q What time was this?

14 A 4:45, 5:00 o'clock.

15 THE COURT: What date?

16 THE WITNESS: December 14th.

17 THE COURT: It was dark?

18 THE WITNESS: Yes.

19 BY MR. BURLINGAME:

20 Q What year?

21 A 1990.

22 Q How do you remember that the date was December 14th,
23 1990?

24 A That week John Gotti got arrested for a racketeering case
25 on the 10th or 11th.

1 THE COURT: How was the lighting?

2 BY MR. BURLINGAME:

3 Q How was the lighting this morning?

4 A Black, dark. It was lights over here and stuff, but it
5 was dark in the parking lot.

6 Q Could you see around where you were, around the armored
7 car?

8 A Yes. This is all glass.

9 Q Did your car have headlights on?

10 A I don't remember if it had headlights on. I don't think
11 it did.

12 Q Do you know if the armored car had headlights on?

13 A Yes.

14 Q Now, you testified that Bobby Borriello had a weapon?

15 A Yes.

16 Q What type of weapon did he have, again?

17 A A shotgun.

18 Q And you testified that the defendant had a pistol?

19 A Correct.

20 Q Now, when you arrived, what, if anything, did the driver
21 of the armored car do?

22 A He got out and went this way (indicating).

23 Q Indicating that the driver of the armor car exited from
24 the spot of the driver's side of the armored car and walked in
25 front of the armored car?

1 A That's correct.

2 Q Okay. Once he passed the front of the armored car, could
3 you still see him from your position in the driver's seat?

4 A No.

5 Q What happened next?

6 A He went in the front.

7 Q Could you see that?

8 A No, I know what happened because I --

9 Q Let's just go through it step-by-step. What happened
10 next, after you saw the driver disappear behind the armored
11 car?

12 A Charles got out and Bobby got out.

13 Q Okay. When Charles got out, show us what route he took,
14 where he went.

15 A Right here (indicating).

16 Q Okay. Then you lost sight. Is it fair to say you lost
17 sight of him when he went around the corner of the armored
18 car?

19 A Yes.

20 Q He got out of the car first?

21 A Yes.

22 Q What happened next?

23 A He did the same (indicating).

24 Q Bobby Borriello?

25 A Correct.

1 Q He followed the same path along the armored car?

2 A Yes.

3 Q When point did you lost sight of him?

4 A He hid over here (indicating).

5 Q Okay. So is it fair to say you're sitting here. Once
6 these guys have disappeared out of view, you're sitting in the
7 driver's seat and the armored car is blocking your vision of
8 what's happening in the area in front of the armored car and
9 to the right side of the armored car?

10 A Correct.

11 Q What happened after the defendant and Bobby Borriello ran
12 around the side of the armored car?

13 A I heard a lot of shots fired and noises and firecracker
14 noise.

15 Q Did all the shots sound the same?

16 A I don't remember if they sounded the same.

17 Q You heard a number of shots?

18 A Yes.

19 Q Then what happened?

20 A Then a couple of second passed and Bobby Borriello ran
21 back with two bags in his hands.

22 Q He ran back with two -- what kind of bags?

23 A Canvas bags.

24 Q And had you seen bags like that before?

25 A Yes. I used to stand here when the armored car -- when

1 the drivers would go in and I tried to pick the locks. So
2 I've seen them plenty of times.

3 Q What was your understanding of what was in those canvas
4 bags?

5 A Well, I only seen the one. I don't know where the other
6 one came from. But money, I would imagine. They went here,
7 to an office, and this is where they bring the money. They
8 would walk through this (indicating).

9 Q And did you see this this day or do you know this
10 from prior times --

11 A I've seen it prior times.

12 Q -- conducting surveillance?

13 A Yes.

14 THE COURT: Indicated the top of the diagram, the
15 right margin is where the office is?

16 THE WITNESS: Yeah. That's where the armored car
17 drivers would walk. This was glass. And they would walk down
18 a hallway and be gone for about ten minutes.

19 THE COURT: The glass is part of a non descriptive
20 area.

21 THE WITNESS: These are doors, actually. Doors.

22 MR. BURLINGAME: The witness is writing doors on the
23 diagram and glass to the side of the doors.

24 Q Okay. And you know about where the guards typically went
25 based on your prior surveillance?

1 A Yes.

2 Q And when you surveilled in the past, how many bags of
3 money were typically taken inside the American Airlines
4 building?

5 A Only one.

6 Q You testified that when Bobby Borriello came back after
7 the shots were fired, he had two bags?

8 A Yes.

9 Q What did he do after he came back?

10 A Jumped in the back seat.

11 Q What happened after he jumped in the back seat?

12 A I didn't see Charles. I ran over to this area
13 (indicating). But if there were shots fired, I'm thinking I
14 went this way (indicating). But I'm not positive.

15 Q So you're not sure. Don't draw if you're not sure where
16 you went. You say you went around the armored car, either
17 around the back of it or around the front of it?

18 A Yes.

19 Q What did you see when you got around the armored car?

20 A Charles was over here (indicating).

21 Q Okay. Can you draw an X in the spot where you saw the
22 defendant?

23 A Here (indicating).

24 Q Okay. And when you saw the defendant, what was he doing?

25 A He was on top of the guy, pistol whipping him.

1 Q And when you say he was on top of the guy, which guy?

2 A The armored car driver.

3 Q And what does that mean to pistol whip somebody?

4 A He was hitting him in the head.

5 Q Can you explain the position that armored car guard was
6 in while the defendant was pistol whipping him?

7 A He was on his knees.

8 Q Was he facing towards the defendant or away from the
9 defendant?

10 A Away from the defendant.

11 Q So fair to say the defendant was holding him from behind?

12 MS. SHARKEY: Objection as to the characterization.

13 THE COURT: You may continue your questioning.

14 Don't lead.

15 MR. BURLINGAME: Thank you, Judge.

16 A He was like this, and Charles was behind him.

17 (Indicating.)

18 BY MR. BURLINGAME:

19 Q And when you say pistol whipping, he's hitting him in the
20 head with a gun?

21 A Correct.

22 THE COURT: The witness was down on his knees
23 demonstrating.

24 BY MR. BURLINGAME:

25 Q What did you do?

1 THE COURT: Was the defendant facing him or --

2 BY MR. BURLINGAME:

3 Q Was the defendant facing --

4 A Charles was behind him.

5 Q Okay. Just to summarize, the driver of the armored car
6 was on his knees facing away from the defendant?

7 A Facing the American Airlines building.

8 Q The defendant was behind him facing in the same direction
9 as the armored car driver and the defendant was beating him in
10 the head with the gun?

11 A Yes.

12 THE COURT: Where were they at this point?

13 BY MR. BURLINGAME:

14 Q And were they located approximately where that X is?

15 A Correct.

16 Q And what does this green area signify to you?

17 A Grass.

18 Q If you could just write grass on here?

19 A (Witness complies.)

20 (Matter continued on the next page.)

21

22

23

24

25

1 CONTINUED DIRECT EXAMINATION

2 BY MR. BURLINGAME:

3 Q Mr. McMahon, so what did you do when you saw this?

4 A I ran over to him and said, "Let's go." I pulled him
5 off.

6 Q And when you pulled him off, what was the defendant
7 doing?

8 A Swinging.

9 Q Did you make contact with the defendant?

10 A I grabbed him. I pulled him.

11 Q And were you able to pull him off?

12 A Yes. He stopped right away.

13 Q And then what happened?

14 A Then the guy fell down on the grass.

15 Q Okay. Now, as soon as the defendant let go of the guy he
16 was beating with a gun, how did he fall?

17 A Facedown.

18 Q On the grass?

19 A Correct.

20 Q Did he appear to be conscious at that point?

21 A No.

22 Q So he just dropped completely to the ground?

23 A Yes.

24 Q And what did you do after the armored car driver that the
25 defendant was beating in the head with a gun dropped face

1 first onto the grass?

2 A We ran back to the car.

3 Q What, if anything, did you see when were you running back
4 to the car?

5 A There was a guy underneath the truck. Actually,
6 underneath the truck, under the car he was hiding. He was
7 under there, and he was like this.

8 MR. BURLINGAME: Okay. So let the record reflect --

9 THE COURT: Let the witness describe it.

10 MR. BURLINGAME: I will.

11 Let the record reflect that the witness drew a stick
12 figure.

13 BY MR. BURLINGAME:

14 Q And is it fair to say the stick figure above the initials
15 AC for the armored car --

16 A Should I write other armored car driver?

17 Q I think the record will be clear.

18 Is the other armored car driver that you spotted
19 underneath the armored car?

20 A Yes. I believe he was facing that way.

21 Q And you believe that he was facing the rear of the
22 armored car?

23 A I believe he was facing that way, yes.

24 Q Now, you testified that he was doing something with his
25 hands.

1 He had them in front of his face?

2 A I don't know if he had them opened or closed or like
3 this, but he had his hands all of the way up here.

4 MR. BURLINGAME: So the witness is gesturing he had
5 his hands near his face, and it was unclear whether the
6 fingers were spread apart in front of his eyes or his hands
7 were closed in front of his eyes.

8 BY MR. BURLINGAME:

9 Q Is that fair?

10 A Yes.

11 Q Okay. So do you remember which route you took back from
12 this spot on the grass where the defendant was beating the
13 armored car driver?

14 A Right here --

15 Q Okay. There's a --

16 A -- or maybe this way. It was close, but I know that I
17 seen him. He was to my right.

18 Q So you ran back toward the armored car and then you ran
19 parallel to the armored car --

20 A The armored car.

21 Q -- and returned to your car?

22 A That is correct.

23 Q What happened when you returned to your car?

24 A I left as fast as I could.

25 Q Okay. And which route did you take to leave?

1 THE COURT: Who was in the car with you?

2 BY MR. BURLINGAME:

3 Q Who was in the car when you left?

4 A Charles Carneglia and Bobby Boriello.

5 Q And where was everybody sitting?

6 A Same spot.

7 Q Same spot.

8 Okay. And if you could just map out the route that
9 you took to leave?

10 A There is a boat here, but there was nobody in it.

11 MR. BURLINGAME: Let the record reflect that the
12 witness just drew a box on the gray stripe up here in the
13 left-hand corner of the exhibit.

14 THE COURT: What is that horizontal line in the
15 middle?

16 THE WITNESS: This?

17 THE COURT: The one that the arrows go through.

18 THE WITNESS: This is leaving. Oh, this is -- was
19 just part of the parking lot.

20 THE COURT: Was it a raised divider or --

21 THE WITNESS: No, it's not. It's just that it --
22 people drive home. Well, there is always traffic coming in
23 here; so people drive back and forth this way. They just stay
24 on this side.

25 MR. BURLINGAME: Judge, I believe that either --

1 these stripes are meant to signify this is the roadway.

2 THE COURT: Are they stripes painted on the ground?

3 THE WITNESS: I don't think so, no.

4 THE COURT: Okay.

5 BY MR. BURLINGAME:

6 Q All right. You can retake the stand.

7 And what was the -- there is a gray area here that
8 is labeled "parking lot."

9 A That is just the open area where all the cars park, and
10 this has a chain-link fence.

11 THE COURT: A what?

12 THE WITNESS: A chain-link fence around it. And
13 there is a guard booth -- there was a guard booth here but
14 there was nobody in it until after the -- after the robbery.

15 BY MR. BURLINGAME:

16 Q Now, when you pull the defendant off of the armored car
17 driver on the grass, did you remember seeing blood on the
18 armored car driver?

19 A No.

20 Q What did he look like?

21 A I don't know if I was able to ID him from this time, but
22 it was dark. I don't know if it was from the previous
23 attempts or that was his regular driver, but I can't remember.

24 Q What was he wearing?

25 A He was wearing a blue uniform. He was a darker skin.

1 MR. BURLINGAME: You can retake the stand.

2 Thank you.

3 (Witness resumes the stand.)

4 BY MR. BURLINGAME:

5 Q You testified that once you got back to the car you left
6 the parking lot?

7 A That is correct.

8 Q What speed did you drive?

9 A As fast as I could.

10 Q How were you feeling at the time?

11 A My adrenalin was going, shots fired.

12 Q Do you remember anyone saying anything in the car while
13 you were driving back to your apartment?

14 A Charles was saying, "Slow down."

15 Q Did he appear to be at all agitated?

16 A No.

17 Q Did you make it safely back to your apartment?

18 A I did.

19 Q What happened then?

20 A Me and Charles went in -- went in the house. And, you
21 know -- he said, you know, "I don't know what happened. Don't
22 say nothing. Nobody knows. Shut your mouth. Don't -- you
23 know, don't admit to it." And he went in the closet and took
24 all of the hats and took his hat off and put it in a bag and
25 left.

1 Q Did you see the defendant again that day?

2 A No.

3 Q Did you see Bobby Boriello again that day?

4 A No.

5 Q Did Bobby Boriello come into your house?

6 A He did not.

7 Q After the robbery did you talk to anyone about what
8 happened?

9 A Peter Zuccaro called or passed by, people called up on
10 the phone. Maybe Frankie Lap and Michael Finnerty.

11 Q So Peter Zuccaro, Frankie Lap, and Michael Finnerty,
12 those were all the people who had been involved in the plot to
13 rob the armored car?

14 A Before, yes.

15 Q Do you remember any of those conversations?

16 A I don't, but I know I denied it.

17 Q Do you remember any conversation with Peter Zuccaro?

18 A Later on he came by and said, "Buddy, you dropped your
19 hat."

20 And I said, "No, I didn't. I don't even know what
21 you are talking about."

22 Q Do you remember dropping your hat during the robbery?

23 A I do not.

24 Q Was a hat left at the scene?

25 A It was.

1 Q How do you know?

2 A I seen it on TV.

3 Q Was there much media coverage of the robbery and the
4 murder?

5 A Yes.

6 Q Do you know how much money was taken during the robbery?

7 A I do not know.

8 Q Who kept the money the day of the robbery?

9 A Charles or Bobby. I'm not sure.

10 Q When was the last time you saw it?

11 A I didn't see it. They left with it and that was the end
12 of that. They never came out of -- it never came out of the
13 car.

14 Q Now, did you ever get any of that money?

15 A I did.

16 Q How?

17 A Charles came by and gave me 20,000.

18 Q On that occasion did the defendant speak to you?

19 A Yes. I told him what had happened, people are asking and
20 stuff like that. And he said, you know, just deny it.

21 Q How long after the robbery did he come by to give you the
22 \$20,000?

23 A I am not sure. It was a week or two. I am not exactly
24 sure.

25 Q And what was your understanding as to where the defendant

1 had been since the robbery?

2 A He was in his room, boarded up.

3 Q What does that mean, "boarded up"?

4 A He would go in his room and lock in and drink and put
5 plywood on the walls.

6 Q Is that something that he did frequently?

7 A Yes.

8 Q Did you and the defendant talk about the hat after the
9 robbery?

10 A We did.

11 Q When?

12 A He called me up and told me to come to his house one
13 night. And he had a hat similar to the one from the American
14 Airlines in a fish tank, and he had Krazy Glue underneath it
15 to see if he could get prints off the back of it.

16 Q Did he say anything to you?

17 A He said that you couldn't get the prints.

18 Q Did the defendant ever bring up the hat again after he
19 did the fingerprint test on it?

20 A Yes. He brought it up every time some new technology
21 came out with DNA or something.

22 Q What did he say to you?

23 A Oh, look how close they could get -- well, he felt that
24 they couldn't get it from the root, but then later on you
25 could get it from a root.

1 Q When you say "a root," what do you mean?

2 A A root of hair. At one time you needed the whole root
3 and all to get. You couldn't get it just from the hair. You
4 needed the whole root for DNA, and later on they found out
5 they can do it from a piece of hair.

6 Q When you discussed the robbery with the defendant, was
7 there any code you used to refer to it?

8 A A knee. Just point to your knee.

9 Q Point to your knee instead of saying any words?

10 A Instead of doing this under surveillance somewhere.

11 Q Was it common for the two of you to use codes when you
12 were discussing criminal activities?

13 A Yes.

14 Q Why?

15 A Bugs or bugging equipment or -- or somebody surveilling
16 you or taking a video.

17 Q Now, did you end up keeping the \$20,000 that the
18 defendant gave you?

19 A I did not.

20 Q Why not?

21 A He came by one night and asked to borrowed a couple of
22 thousand, and I gave him the money -- the money from the pile
23 that he gave me, and it was all sequential money. And he went
24 crazy.

25 Q What does that mean, "sequential money"?

1 A One, two, three, four -- it was on -- all of the bills
2 were marked.

3 Q The bills were in numerical order?

4 A That is correct.

5 Q And did you understand why he went crazy?

6 A Because he said, "You trying to get me pinched?"

7 Q Why would the bills being in numerical order be
8 important?

9 A Because you could tell where it came from.

10 Q Did the defendant ever tell you whether he or
11 Bobby Boriello shot the driver of the armored car?

12 A He did not.

13 Q How did you learn that the driver died?

14 A From the newspapers and the TV.

15 Q To the best of your -- you testified that you remember
16 that the armored car robbery took place on December 14th,
17 1990, because John Gotti, Sr., was arrested that week.

18 A That is correct.

19 Q What was the defendant's reaction to the news that
20 John Gotti, Sr., was arrested?

21 A He was very upset.

22 Q Was he upset about the killing of the armored car driver?

23 A He was not.

24 MS. SHARKEY: Objection.

25 THE COURT: You may answer.

1 THE WITNESS: He was not.

2 BY MR. BURLINGAME:

3 Q So he was upset about the news that John Gotti, Sr., had
4 been arrested, but he was not upset about the news that the
5 armored car driver died?

6 A Correct.

7 Q And that is the same armored car driver that he was
8 pistol whipping from behind --

9 A Correct.

10 Q -- the American Airlines building?

11 A That is correct.

12 Q Approximately how much time passes from when you first
13 started trying to rob the armored car with Ronnie DeConza
14 until the driver was killed?

15 A I think a year.

16 Q During that time you testified that a number of different
17 people took part in the attempted robberies; correct?

18 A Correct.

19 Q During that time was the same hats used over and over
20 again?

21 A Well, it was in a bag in the pile, yes. I guess they
22 were. Nobody had their name on it.

23 Q And where did you keep those hats?

24 A In a bag in my closet.

25 Q Did you keep careful track to make sure that the same

1 people wore the same hats each time?

2 A No.

3 Q And the day the driver was killed, you testified that you
4 and the defendant with both wearing American Airlines hats;
5 correct?

6 A That is correct.

7 Q Now, you testified that Bobby Boriello took part in both
8 the DiBono murder and the murder of the armored car driver.

9 Is Bobby Boriello alive?

10 A He is not.

11 Q When did he die?

12 A April of 1991.

13 Q How did he die?

14 A He was ambushed in his driveway, gunned down.

15 Q Where were you situated when you found out that he had
16 been killed?

17 A We were on a visit in Terre Haute, Indiana.

18 Q Who is "we"?

19 A Me and Charles.

20 Q Who were you visiting?

21 A John Carneglia.

22 Q And Terre Haute, that is the federal prison that
23 John Carneglia was in?

24 A It is.

25 Q When you say "Charles," you mean Charles Carneglia?

1 A Correct.

2 Q What did you do when you got the news that Boriello had
3 been killed?

4 A We left the visit a little earlier, and we went to the
5 airport and went home.

6 Q Why did you go home right away?

7 A Bobby -- Charles wanted to see what was going on by the
8 club and everything.

9 Q Which club would that be?

10 A Bergen Hunt and Fish Club.

11 Q Do you remember the defendant saying anything to you
12 about Boriello's death and the DiBono -- and the murders?

13 A He said one less guy to worry about.

14 Q What did you understand that to mean?

15 A Kind of cut and dry. He is dead. There is nobody --
16 nobody to talk about it.

17 Q What was the defendant's relationship with Bobby Boriello
18 while he was still alive?

19 A He was close with him.

20 Q Close friends?

21 A Yes.

22 Q Did you go to Bobby Boriello's wake?

23 A I did.

24 Q Did the defendant go?

25 A He did.

1 Q Did you travel with him?

2 A No.

3 Q Do you know who he went to the wake with?

4 A There was -- there was funeral cars, like, or limousines
5 by the club, and he went in one car and I went in another.

6 Q Do you know any of the people who he went with?

7 A John, Jr., and a bunch of people like that. I guess made
8 men.

9 Q Do you remember who was at the Bobby Boriello wake?

10 A All of the Gambino family except for John Gotti because
11 he was jail.

12 Q Do you remember any specific people that you could name?

13 A Danny Fama -- Danny Fama was also there. Everybody was
14 there that -- John, Jr. There was everybody that was there.

15 Q Any names coming to mind?

16 A John Alite, Tommy "Sneakers," Little Jackie. I guess the
17 place was packed. I don't really know.

18 Q Do you remember if Jackie D'Amico was there?

19 A I am not positive. Everybody was there. I don't -- it
20 was very crowded. I don't know if he was or wasn't.

21 Q Who was Jackie D'Amico?

22 A He was a captain at the time who later they say became
23 boss.

24 Q I am showing you Government Exhibit 2I.

25 A Jackie, "the Nose," D'Amico.

1 Q And your testimony is -- what's the highest position he
2 obtained in the Gambino family?

3 A I think he became acting boss or something, some kind of
4 administration.

5 Q What is a mass card?

6 A A mass card is after you go to the -- view the body there
7 is usually cards the family puts out or the funeral home.

8 Q When you view the body at the awake?

9 A That is correct.

10 Q Did you keep the mass cards of certain wakes and weddings
11 that you attended?

12 A I probably lost a lot, but yeah. I kept some.

13 Q And were those mass cards provided to the Government?

14 A They were.

15 Q I am showing you what has been marked as Government's
16 Exhibit 317C4. Can you take a look at that and let me know
17 what it is.

18 A It's a picture of Bobby Boriello, a mass card.

19 Q And is that -- what mass card that is from?

20 A That is from his wake, April 13th, 1991.

21 MR. BURLINGAME: Permission to publish to the jury.

22 THE COURT: Did you admit it?

23 MR. BURLINGAME: I move to admit.

24 THE COURT: Admitted.

25 MR. BURLINGAME: Thank you, Judge.

1 (So marked as Government Exhibit 317C4 in evidence.)

2 BY MR. BURLINGAME:

3 Q Did you attend many Gambino family wakes and weddings?

4 A I did.

5 Q Why did you go?

6 A To show respect.

7 Q Were you ever told to go?

8 A I don't -- I think I knew to go. I don't think that I
9 was ever told to go. I don't think it was an argument.

10 Q Do you remember which Gambino family wakes you attended,
11 beside Bobby Boriello's wake?

12 A Angelo Ruggerio, Sr.'s, his mother's. Angelo Ruggerio,
13 his mother. Sal Ruggerio's mass.

14 Q What was Angelo Ruggerio mother's name?

15 A Emma Ruggerio.

16 Q Any other wakes?

17 A There were a lot. There was a lot of wakes. There are
18 too many to remember.

19 Q Do you remember going to the Eddie Lino wake?

20 A Yes. Eddie Lino's wake, yes.

21 Q What about the Gotti, Sr., wake?

22 A Gotti, Sr.? No. I was on bail.

23 Q My mistake.

24 Gotti, Sr.'s, father?

25 A Yes. There was a bunch of them. I can't think of them

1 right now. Jimmy Burke's we went to.

2 Q Who was John Boriello.

3 A John Boriello was a kid that was associated with Charles,
4 and he got killed by Vito Guzzo.

5 Q Who was James J. Burke?

6 A That was Jimmy -- Jimmy Burke, the one that the movie
7 "Goodfellas" is made off of.

8 Q I am showing you what has been marked as Government
9 Exhibit 317C1.

10 Can you tell me what that is.

11 A Jimmy Burke's --

12 Q What?

13 A -- mass card. April 13th, 1996.

14 Q And did you provide that mass card to the Government?

15 A I did.

16 Q Did you go to that wake?

17 A Yes.

18 MR. BURLINGAME: I move to admit Government
19 Exhibit 317C1.

20 THE COURT: Yes.

21 (So marked as Government Exhibit 317C1 in evidence.)

22 BY MR. BURLINGAME:

23 Q And I am showing you Government's Exhibit 317C3.

24 A John F. Boriello. October 9th, 1996.

25 Q And what is that?

1 A That is the same thing, a mass card.

2 Q And did you provide that to the Government?

3 A I did.

4 Q And did you acquire that at his wake?

5 A I did.

6 MR. BURLINGAME: I move to admit 317C3.

7 THE COURT: Yes. Admitted.

8 (So marked as Government Exhibit 317C3 in evidence.)

9 MR. BURLINGAME: I would like to publish it to the
10 jury.

11 THE COURT: Yes.

12 (Handing the mass card to the jury.)

13 BY MR. BURLINGAME:

14 Q Do you remember any of the Gambino family weddings that
15 you attended?

16 A There was also a bunch. Ronnie Trucchio's sticks out.
17 I didn't go to John, Jr.'s.

18 Q Now, you testified before about someone name Helen
19 Forgione.

20 Can you remind the jury who she was?

21 A She was John's mother-in-law, John Carneglia's
22 mother-in-law.

23 Q Did you attend her wake?

24 A I did.

25 Q What was the weather like the day of her wake?

1 A It was a snowstorm.

2 Q I am showing you what has been marked as Government
3 Exhibit 317C2.

4 Can you tell me what that is?

5 A A mass card of Helen Forgione. 1996, January 4th.

6 Q She is John Carneglia mother-in-law?

7 A She was, yes.

8 Q Did you attend this wake?

9 A I did.

10 MR. BURLINGAME: I move to admit 317C2.

11 THE COURT: Yes.

12 (So marked as Government Exhibit 317C2 in evidence.)

13 BY MR. BURLINGAME:

14 Q When you went to Gambino family -- did you ever attend
15 Gambino family wakes and weddings with the defendant?

16 A Yes.

17 Q And when you went to Gambino family events with the
18 defendant, did you ever receive any instructions from Peter
19 Gotti and/or John Carneglia?

20 A To just keep an eye on Charles.

21 Q What did that mean?

22 A So he didn't drink and make a scene or embarrass them.

23 Q What would you call that?

24 A Babysitting.

25 Q Did the defendant ever talk to you?

1 MR. BURLINGAME: Judge, if you want to take a break,
2 this might be a good opportunity, or we could go on.

3 THE COURT: Yes.

4 All right. Take a break.

5 (Whereupon, the jury leaves the courtroom at
6 2:40 p.m.)

7 THE COURT: I don't want the defendant making noise
8 when the witness is speaking. You just did that repeatedly.

9 All right. Ten minutes.

10 MR. BURLINGAME: Thank you, Judge.

11 (Recess taken at 2:42 p.m.)

12 THE COURT: He communicated loudly enough by grunts
13 so that I was annoyed.

14 MR. FARBER: I will advise him, Your Honor, not to
15 do that.

16 THE COURT: Thank you.

17 (Recess taken.)

18 (Matter continued on the next page.)
19
20
21
22
23
24
25

1 (Jury enters courtroom.)

2 (Time noted: 3:00 p.m.)

3 THE COURT: Be seated please. Continue please.

4 MR. BURLINGAME: Thank you, Judge.

5 DIRECT EXAMINATION (CONTINUED)

6 BY MR. BURLINGAME:

7 Q Did the defendant ever talk to you about getting arrested
8 by a court officer?

9 A He did.

10 Q How did he say the arrest took place?

11 A At the Esquire Diner.

12 Q What did he say happened?

13 A He was going downstairs to the bathroom and the court
14 officer disarmed him.

15 Q That happened at the Esquire Diner?

16 A Correct.

17 Q Do you know what was downstairs?

18 A I believe he said the bathrooms.

19 Q Do you know if the defendant faced any charges based on
20 that arrest?

21 A Yes.

22 MS. SHARKEY: Objection.

23 Q What does it mean --

24 THE COURT: No, that's a matter of public knowledge.

25 MR. BURLINGAME: I'm sorry, Judge?

1 THE COURT: Proceed.

2 Q Did the defendant -- was the defendant charged with
3 anything based on the arrest?

4 A He was carrying a weapon, he got charged with a gun
5 charge.

6 Q And you said that the court officer disarmed the
7 defendant; what does disarm mean?

8 A To get it off him.

9 Q Do you know approximately when the defendant was arrested
10 by the court officer?

11 A The 70's sometime, late 70's.

12 Q Did the defendant ever tell you that the court officer
13 was murdered?

14 A Yes.

15 Q When he first told you about the murder, what did he say?

16 A Some asshole did it.

17 Q Did he say anything else?

18 A That it brought him a lot of heat and he didn't do it and
19 somebody thought they were doing him a favor.

20 Q So, when he first told you about it, you understood him
21 to be saying he did not commit the murder?

22 A Correct.

23 Q When did you first talk to the defendant about the court
24 officer?

25 A When I got arrested by an off duty -- he was a correction

1 officer.

2 Q Why did that lead to a conversation about the court
3 officer?

4 A Because the guy that arrested me was known in the
5 neighborhood as a vigilante, a Clint Eastwood, Dirty Harry,
6 Charles Bronson, that type of -- he had a big gun and he made
7 a lot of off-duty arrests.

8 Q Why did that lead to a conversation about the court
9 officer?

10 A Because that's exactly how he explained the court officer
11 that arrested him, hero, good samaritan.

12 Q When was your arrest by that off-duty correction officer?

13 A I'm not really positive of a date.

14 Q Ballpark?

15 A 16, 17 -- 18 years old, 17.

16 Q 18 years old?

17 A '86 or something, I mean '84. I'm not really positive of
18 the dates.

19 Q Best of your recollection it was around '84?

20 A Yeah, '84.

21 Q Did there come a time when the defendant told you that he
22 in fact did kill the court officer?

23 A Yes, many years later.

24 Q Approximately what year?

25 A We were in the junkyard.

1 Q When?

2 A '98, between '98 and 2000.

3 Q How did that conversation come about?

4 A We were playing on the internet and a picture came up of
5 the court officer in some column or something and he pointed
6 to himself and he did like that (indicating) with a hand sign.

7 Q What did you understand that to mean when he pointed to
8 his chest and made a hand sign of a gun to his head?

9 A That he killed him.

10 Q Where were you when he did that?

11 A In the junkyard.

12 Q Was anyone else present?

13 A No.

14 Q Why wouldn't he have just told you out loud?

15 MS. SHARKEY: Objection to form.

16 THE COURT: I'll allow it.

17 A Because the place could be bugged, we didn't talk in
18 there too much.

19 Q Was it typical of you to avoid talking about criminal
20 conduct indoors?

21 A Yes.

22 Q When you did talk indoors did the defendant ever take any
23 steps to cover up the conversation?

24 A Talking indoors, yes.

25 Q What?

1 A Water, put water on loud, turn the radio loud, whisper in
2 each other's ear or turn the radio on to no station, it was
3 just noise, they call it white noise.

4 Q In your experience, was that typical for members and
5 associates of the Gambino family to be concerned about
6 listening devices?

7 A Yes.

8 Q Did you know how to check buildings or cars to see if
9 they were bugged?

10 A I did.

11 Q Did you ever do that for other members or associates of
12 the Gambino family?

13 A I did.

14 Q Many times?

15 A Yeah, I guess so. I don't know how -- I can't put a
16 number on it.

17 Q Now, did the defendant ever tell you what he thought of
18 the court officer he murdered?

19 MS. SHARKEY: Objection.

20 THE COURT: I'll allow it.

21 A He was a hero, a good samaritan, all those names I said
22 before.

23 Q What are those names you said before?

24 A Dirty Harry, Clint Eastwood, you know vigilante, Death
25 Wish.

1 Q When he called him a hero or a good samaritan, did you
2 understand that to mean -- to be a term of praise?

3 A No, not at all.

4 Q How did you take it?

5 A Derogatory.

6 Q Did you know a person named Sal Puma?

7 A I did.

8 Q How old were you when you met him?

9 A 12 or 13.

10 Q Were you friends with him?

11 A I was.

12 Q Did you engage in criminal activity with him?

13 A I did.

14 Q What kind?

15 A I used to steal cars with him.

16 Q Did Sal Puma have any relationship with the defendant
17 that you were aware of?

18 A Yes.

19 Q What was that?

20 A He was associated to him.

21 Q He was an associate under the defendant?

22 A Yes.

23 Q Do you know of any relationship between Sal Puma and a
24 person named Joey Calvacante?

25 A Yes.

1 Q What was it?

2 A They were cousins.

3 Q Did the defendant know Joey Calvacante that you're aware
4 of?

5 A He did.

6 Q Were they close?

7 A Yes.

8 Q Did Joey Calvacante have organized crime ties?

9 A He did.

10 Q What were they?

11 A To John Carneglia.

12 Q What was his position?

13 A John Carneglia was a made man, Joey Calvacante was an
14 associate.

15 Q I'm showing you what's in evidence as Government
16 Exhibit 2jj; do you recognize that person?

17 A Joey Calvacante.

18 Q I'm showing you what's in evidence as Government
19 Exhibit 28; do you recognize that person?

20 A Sal Puma.

21 Q Did there come a point when Joey Calvacante went to
22 prison?

23 A Yes.

24 Q Do you know what he went to prison for?

25 A Robbing armored cars with Peter Zucarro.

1 Q Do you know if he robbed them with anyone else beside
2 Peter Zucarro?

3 A Geeky (ph) and Andrew Curro.

4 Q And when was that approximately that those four people
5 were robbing armored cars?

6 A Late 70's, early 80's.

7 Q Do you know if the defendant maintained contact with Joey
8 Calvacante after he went to prison?

9 A He did.

10 Q How do you know?

11 A He told me.

12 Q What sort of contact did they maintain?

13 A Actually I was there when he would talk to Sal Puma,
14 either tell Joey this or tell Joey that, either the phones or
15 tell Sal Puma messages.

16 Q Did the defendant -- now, you said the defendant was in
17 contact with Joey Calvacante through Sal Puma?

18 A Correct.

19 Q Were you ever there when the defendant gave anything to
20 Sal Puma?

21 A He would give him commissary money.

22 Q What does that mean?

23 A Joey Calvacante was in jail and every week you could buy
24 toiletries and food if you need to to eat, that's commissary.

25 Q Commissary is a prisoner's money?

1 A A prisoner's supermarket I guess.

2 Q And you testified that the defendant was giving Sal Puma
3 commissary money?

4 A Yes.

5 Q For who?

6 A For Joey Calvacante, to pass it to him.

7 Q And Joey Calvacante and Sal Puma were cousins, correct?

8 A Correct.

9 Q Where were you when you found out that Sal Puma got
10 killed?

11 A I was living in Howard Beach, I don't know exactly where
12 I was.

13 Q Were you upset by the news?

14 A Very.

15 Q Why?

16 A Sal Puma was my friend.

17 Q What did you do when you heard the news?

18 A I called up Charles Carneglia.

19 Q Why did you call up the defendant?

20 A To let him know what happened.

21 Q What did you say to the defendant on the phone?

22 A I said, did you hear what happened to Sal Puma, and he
23 said, what's it got to do with me, and he hung up.

24 Q At the time you called the defendant did you know who had
25 killed Sal Puma?

1 A No.

2 Q After you hung up the phone what was your understanding
3 as to why the defendant had hung up on you?

4 MS. SHARKEY: Objection as to form.

5 THE COURT: I'll allow it.

6 A I thought he was upset.

7 Q Did John Carneglia have a conversation with you about
8 your call to the defendant?

9 A Yes.

10 Q What did he tell you?

11 A To lose his number.

12 Q What did you understand that to mean?

13 A Don't call him again.

14 Q Without saying what anyone said, did you overhear people
15 talking about Sal after he died?

16 A No.

17 Q Were you aware that people were talking about Sal after
18 he died?

19 MS. SHARKEY: Objection.

20 THE COURT: I'll allow that.

21 A I was aware people -- every time that people would talk
22 about Sal and I would walk up to a bunch of people talking
23 they would change the subject.

24 Q At the time what was your understanding as to why no one
25 would talk to you about Sal Puma being killed?

1 MS. SHARKEY: Objection.

2 THE COURT: Sustained.

3 Q What did the defendant do after Sal Puma was stabbed?

4 A He went on the lam.

5 Q What does that mean?

6 A Take off, leave your house and hide out somewhere.

7 Q How soon after Sal Puma got killed did he go on the lam?

8 A A couple of weeks.

9 Q Do you know where he was while he was on the lam?

10 A He told me Florida.

11 Q Later on did you ever have conversations with the
12 defendant about what kind of a guy Sal Puma was?

13 A Yes.

14 Q What did the defendant say about him?

15 MS. SHARKEY: Objection.

16 THE COURT: I'll allow it.

17 A I would say what a shame, you know, Sal got killed and he
18 would say, oh, he's a piece of garbage, he robbed his cousin
19 and he was fooling around with his -- Joey Calvacante's
20 girlfriend at the time, Stephanie.

21 Q When you say he was robbing his cousin, who are you
22 talking about?

23 A He was -- Charles would give him commissary money and it
24 would never make it there so he would rob him of the
25 commissary money and I think the money that Joey Calvacante

1 had stashed from the armored car robbery.

2 Q Money that was supposed to be going to Joey Calvacante?

3 A Correct.

4 Q You testified at the time Joey Calvacante was an
5 associate under who?

6 A John Carneglia.

7 Q Did the defendant ever talk to you about your being upset
8 after you found out that Sal Puma was dead?

9 A Yes.

10 Q What did he say?

11 A He made fun of me.

12 Q Did you ever take part in a conversation where the
13 defendant admitted to stabbing Sal Puma?

14 A Yes.

15 Q When did this conversation take place?

16 A Sometime in the 90's.

17 Q How did the topic come up?

18 A He went to a wedding or something with John Gotti, Jr.
19 and I guess they were all talking at the table --

20 MS. SHARKEY: Objection, foundation.

21 MR. BURLINGAME: It is a story the defendant told
22 the witness, Judge.

23 THE COURT: If the defendant said it, you can say
24 what he said. Try to fix where and when.

25 THE WITNESS: They were at a wedding, I don't know

1 where or when.

2 Q Let me just back up a second.

3 THE COURT: Excuse me. Find out where he heard this
4 from the defendant and when. Then let him describe what the
5 defendant said.

6 MR. BURLINGAME: Very well, Judge.

7 Q Do you know where you were when you had a conversation
8 with the defendant?

9 A I don't remember exactly where it was, it came up a
10 couple of times.

11 Q And do you remember -- you said it was in the 1990's, do
12 you know when in the 1990's you had the conversation with him
13 about Sal Puma's stabbing?

14 A I don't remember.

15 Q Do you remember exactly how the topic came up?

16 A Yes.

17 Q And this is what the defendant told you about how -- this
18 is when the defendant told you about the Sal Puma stabbing?

19 A Yes, correct.

20 Q Can you tell us how the topic came up in conversation?

21 MR. FARBER: Objection, improper foundation.

22 THE COURT: You may continue.

23 A He said he was at a wedding and they were all sitting
24 around a table and John Junior was bragging about all the
25 people he stabbed and Sal Puma's name came up and Charles

1 said, if you would have did him right the first time, I
2 wouldn't have had to do it. They were kind of making fun of
3 John Junior that he couldn't stab the guy right.

4 Q What would it mean to stab the guy right?

5 A To kill him.

6 MS. SHARKEY: Objection.

7 Q Sorry. What would it mean to stab the guy right?

8 MS. SHARKEY: Objection.

9 THE COURT: He may testify.

10 A Kill him.

11 Q Do you know if John Gotti, Jr. did in fact stab Sal Puma?

12 A I do not know that.

13 Q Did the defendant ever tell you if any people were around
14 when he stabbed Sal Puma?

15 A Yes.

16 Q What did he tell you?

17 MS. SHARKEY: Objection, foundation.

18 THE COURT: Well, try to fix it as to place and time
19 please.

20 Q When the defendant told you whether or not people were
21 around when he stabbed Sal Puma, do you remember where you had
22 that conversation?

23 A No.

24 Q Do you remember when you had that conversation?

25 A A couple of times.

1 Q Do you remember approximately when each of those
2 conversations were?

3 A I can't remember.

4 Q Do you remember the conversation clearly?

5 A Very clearly.

6 Q And this was a conversation between you and the
7 defendant?

8 A Yes.

9 Q And this was a conversation where the defendant was
10 talking about stabbing Sal Puma?

11 A Yes.

12 Q And he was describing it, what was -- what happened at
13 the time that he stabbed Sal Puma?

14 A He never said he -- besides the time of Junior he never
15 said that again that he stabbed him, just that time with
16 Junior, but he just said when Sal Puma got killed that all
17 these people on the corner made statements and he named the
18 names.

19 Q What were the names he named?

20 MS. SHARKEY: Objection.

21 THE COURT: I'll allow it.

22 A Dina Albanese, Kurt Russo, Mace, one of the Ventrice
23 brothers, and somebody else.

24 Q And you testified he said there were a bunch of people on
25 the corner?

1 A Yeah.

2 Q Those were some of the people whose names you remember
3 him mentioning?

4 A Yeah, because Dina Albanese had went to the cops.

5 Q Do you know what Mace's real name was?

6 A No.

7 Q Do you know where the defendant lived when the stabbing
8 took place?

9 A I know how to get there, it's -- the address is either
10 seven -- it is in between 77th Street or 79th Street, 153rd or
11 155th Avenue, I'm not really positive.

12 Q Do you know where he lived in relation to where the
13 stabbing took place?

14 A Across the street.

15 Q Did the defendant ever tell you that he was worried that
16 the kids or that the people he spotted on the corner would
17 talk?

18 A Did I mention the name Kurt Russo? That was another
19 name.

20 Q That was another person who was there on the night that
21 the defendant stabbed Sal Puma?

22 A Yes.

23 Q Did the defendant ever tell you he was worried that kids
24 on the corner would talk?

25 MS. SHARKEY: Objection.

1 A They already did.

2 MS. SHARKEY: Objection.

3 THE COURT: Overruled.

4 Q Sorry. Did the defendant ever tell you that he was
5 worried that the kids on the corner would talk?

6 A They did talk.

7 Q Did he tell you whether he threatened any of them?

8 A He told me it was taken care of, that people had to make
9 people forget things.

10 Q Now, you mentioned earlier that a guy named George
11 Licastro was involved in two armored car robberies with you;
12 who was George Licastro?

13 A He was an associate of Charles Carneglia and John
14 Carneglia.

15 Q Did he have a special relationship with the defendant?

16 A He did.

17 Q What was it?

18 A He was the godfather to his son.

19 Q Who was the godfather to whose son?

20 A Charles Carneglia was the godfather to George Licastro's
21 son.

22 Q Did the defendant ever tell you about George Licastro
23 being present when he stabbed someone?

24 A Yes.

25 Q Do you remember when he told you this?

1 A I don't remember when he told me but I know it was in
2 relationship to.

3 Q How did it come up?

4 A I had another dirt bike and George Licastro's brother --
5 I lent it to Frankie Radici and George Licastro's brother Joey
6 jumped on the back of it and they crashed. So, George was
7 like, oh, this is his second dirt bike, I want to kill him and
8 Charles told me that he stopped him from coming after me even
9 though I thought he was -- that we always called him dopey, I
10 thought he was a joke but Charles is like, no, he's no joke
11 and he's a standup guy and he was there when I did something
12 and never told on me.

13 Q Did he tell you what George Licastro was there --

14 A He said he was at a diner involved in a stabbing and he
15 had gotten a lot of heat over it or was the main suspect.

16 Q Who was the main suspect?

17 A George Licastro.

18 Q And you said the defendant was involved in what sort of
19 incident at this diner?

20 A A fight and it was a stabbing.

21 Q Do you know what happened to the person that he stabbed?

22 A Died.

23 Q The defendant told you that?

24 A Correct.

25 Q Now, you said that the defendant told you that George

1 Licastro was a standup guy?

2 A Correct.

3 Q What does that mean?

4 A It means the cops came and threatened to arrest him for
5 doing the crime and even though he didn't do the crime, he
6 still didn't tell them who did it either.

7 Q And what, if anything, happened to George Licastro during
8 the stabbing?

9 MS. SHARKEY: Objection, foundation.

10 THE COURT: Well, excuse me, what kind of foundation
11 would you like established for the fact that the defendant --
12 the witness is going to say that the defendant told him what
13 happened at an event in question?

14 MS. SHARKEY: I don't think, respectfully, Judge, I
15 don't think the witness has set a foundation as to time, place
16 when this conversation happened or to the basis of his
17 knowledge. That would be my objection.

18 THE COURT: The basis of his knowledge -- establish
19 that the basis of his knowledge is what he heard from the
20 defendant and then proceed.

21 MR. BURLINGAME: Okay, Judge. I believe that's on
22 the record.

23 Q Everything you've testified concerning this incident
24 where the defendant stabbed and killed someone at the diner,
25 George Licastro was present?

1 A Correct.

2 Q Did you learn all that from the defendant's mouth?

3 A Yes.

4 THE COURT: When and where?

5 A It came up a couple of times dealing with George like how
6 tough he was and standup. I can't pick -- you know, name a
7 place and time or place.

8 Q But you remember specifically that it occurred in
9 discussing this incident with George Licastro where George
10 Licastro's brother crashed your minibike and went into a coma?

11 A Correct.

12 Q And, again, why did it come up in that context?

13 A Because I would call George dopey George or something and
14 he would say, oh, you know, he was going to kill you for that,
15 I stopped him and then he would get into that whole story of
16 what a standup guy he was, he got stabbed in the hand and he
17 never told on him.

18 Q When you say George got stabbed in the hand, that's the
19 same night that the defendant told you that he stabbed the
20 person at the diner?

21 A Yes. He said he had a fight and he stabbed him and
22 somehow George got in the way and got stabbed too but he was
23 named as a suspect and he didn't cooperate.

24 Q Did he tell you what diner it was?

25 A He didn't.

1 Q Showing you what's in evidence as Government Exhibit 2
2 quadruple E; can you identify that person?

3 A George Licastro.

4 Q What's the highest position that he attained in the
5 Gambino family?

6 A Associate.

7 Q Did the defendant ever tell you that he participated in a
8 plan to kill Danny Marino?

9 A He did.

10 Q Who is Danny Marino?

11 A Danny Marino was a captain in the Gambino family.

12 Q Showing you Government Exhibit 2 triple G.

13 A Danny Marino.

14 Q And to your knowledge, the highest position that he
15 attained in the Gambino family was captain?

16 A That I knew of, yes.

17 Q Do you remember where the defendant told you that he
18 participated in a plan to kill Danny Marino?

19 A I don't -- probably his house. I think it was his house.

20 Q Do you remember approximately when he told you that he
21 participated in a plan to kill Danny Marino?

22 A Yes.

23 Q When?

24 A In the 90's sometime. Exact date, I don't remember.

25 Q Do you remember which part of the 90's?

1 A It was before John Junior went to jail in '98, so, '97
2 '96 would be a guess.

3 Q And do you remember that conversation clearly?

4 A Yes.

5 Q What did the defendant tell you about the plan to kill
6 Danny Marino?

7 A Well, the plan, the conversation came out as that he was
8 mad at John Junior for exposing him and how he got exposed was
9 that John Junior had a plan to talk to Danny Marino at a
10 sitdown and if it didn't go good, then Charles would have to
11 kill him but the conversation -- Danny Marino pulled up with a
12 limo with Joe Watts, so that was the first bad thing that
13 happened, and then John Junior and Danny Marino end up talking
14 and settling it and instead of letting Danny Marino just get
15 in the limo and leave, he called down Charles so Danny Marino
16 knew that Charles was upstairs and knew exactly what his
17 intention was so he was worried about Danny Marino and mad at
18 John Junior.

19 Q And you said that Charles was upstairs?

20 A Or in a closet -- I'm not exactly word for word but he
21 got exposed, I don't know if he popped out of a closet or came
22 down. I'm pretty sure he came down from wherever it was.

23 Q And what was your understanding of why the defendant was
24 upstairs during this meeting?

25 A Because if the meeting didn't go right, Junior would have

1 signaled -- John Junior would have signaled for him to come
2 down and kill Danny Marino.

3 Q Now, you said this meeting concerned a dispute between
4 John Junior and Danny Marino?

5 A Correct.

6 Q Do you remember what the dispute was about?

7 A No, I wouldn't have knowledge of that.

8 Q You mentioned a couple of people; to the best of your
9 recollection, who did the defendant tell you was at that
10 meeting?

11 A John Junior, Joe Watts, Danny Marino, Tommy Sneakers, and
12 a couple of other guys that I can't remember.

13 Q And he told you that Joe Watts showed up in a limo?

14 A Correct, with Danny Marino.

15 Q And you said that was the first thing that went wrong?

16 A Right.

17 Q What was your understanding as to why that was something
18 that went wrong?

19 A Because then you'd have to get rid of the limo driver and
20 I don't know what Joe Watts did but Joe Watts brought him
21 there so I guess he would be all right.

22 Q And this is the same Joe Watts you testified earlier was
23 a powerful Gambino associate who had his own crew?

24 A Correct.

25 Q Now, you testified that the defendant was upset with John

1 Gotti, Jr. about this incident?

2 A Yes.

3 Q Why?

4 A Because he felt there was no reason to expose him, he
5 could have just let Danny Marino leave and nobody would have
6 known he was there.

7 Q When you say "expose him," expose what?

8 A John Junior called him down, he pretended like he was
9 sleeping or something but he was busted.

10 Q Busted for doing what?

11 A For being upstairs or wherever he was, you know, Danny
12 Marino wasn't stupid.

13 Q That he was busted for lying in wait to kill Danny
14 Marino?

15 A Correct.

16 Q Why did the defendant tell you about this?

17 A Because he was worried about Danny Marino and he was mad
18 at John Junior.

19 Q Why was he worried about Danny Marino?

20 A Because Danny Marino is a pretty powerful guy himself and
21 the family was getting divided with John Junior and Danny
22 Marino.

23 Q Who is Allen Meshanski?

24 A An associate under Charles.

25 Q I'm showing you Government Exhibit 2 quadruple G.

1 A Allen Meshanski.

2 MR. BURLINGAME: Move to admit 2gggg.

3 THE COURT: Admitted.

4 (Government Exhibit 2gggg received in evidence.)

5 Q What's the highest position you're aware of he attained
6 in the Gambino family?

7 A Associate.

8 Q Do you know if Allen Meshanski participated in criminal
9 activity with the defendant?

10 A He did.

11 Q How do you know?

12 A Charles told me and I know.

13 Q What sort of criminal activity did he participate in with
14 the defendant?

15 A Him and Carl Klein went on an assault and he would just
16 pick up drugs for Charles.

17 Q When you say "pick up drugs for Charles," who are you
18 talking about?

19 A Just pick up pot and stuff, bring it to Charles.

20 Q For the defendant?

21 A Correct.

22 Q Did you ever commit any crimes with Meshanski?

23 A Not that I could remember.

24 Q Did you ever give him a box of guns?

25 A I did.

1 Q Are you aware that that's a crime?

2 A I forgot about it.

3 Q Tell us what happened?

4 A I got out on bail and Charles wanted the gray box of guns
5 back.

6 Q When did you get out on bail?

7 A November of 2000.

8 Q And you testified that the defendant wanted the gray box
9 of guns back?

10 A Correct.

11 Q Did you testify about this gray box of guns before today?

12 A Yes.

13 Q Which gray box of guns is it?

14 A The gray box of guns that we put the Louis DiBono murder
15 weapon in and later destroyed.

16 Q The ones that were in Carol Carrington's garage?

17 A That's correct.

18 Q How many guns were in that box?

19 A The last I remember like 20.

20 Q And you gave them to Meshanski?

21 A I did.

22 Q Why did you give them to Meshanski?

23 A Because Charles wanted him to go pick them up.

24 Q Who is Dave D'Arpino?

25 A Dave D'Arpino is an associate with Johnny Alite.

1 Q Are you aware if the defendant ever assaulted D'Arpino?

2 A I am.

3 Q How are you aware of that?

4 A I was there.

5 Q Why did the defendant assault Dave D'Arpino?

6 A He wanted information out of him.

7 Q Why, what happened?

8 A The story?

9 Q Tell us the back story that led to the assault?

10 A John Carneglia's daughter was having a party, a
11 graduation party.

12 Q Graduation from what?

13 A Her school, I guess high school, I don't remember, and
14 somebody shot a kid in front of John Carneglia's house and a
15 lot of people said Chris Carneglia did it but Chris and
16 everybody else was saying Joey Scopo did it.

17 Q Who is Joey Scopo?

18 A He was a -- his father was a Colombo boss and he's now a
19 Gambino associate, a made man.

20 Q Showing you Government Exhibit 2 triple P; who is that?

21 A Joey Scopo.

22 Q What's the highest position in the Gambino family you're
23 aware of that he attained?

24 A Made man.

25 Q And he's a made man in the Gambino family; is that

1 correct?

2 A That is correct.

3 Q But his father was in which organized crime family?

4 A Colombo, he got killed.

5 Q Is that odd that someone would be in a different
6 organized crime family than their father?

7 A Yes, his father is dead and he didn't get along with his
8 uncle.

9 Q Now, you said that there was some dispute between whether
10 Joey Scopo or Chris Carneglia --

11 A Did the shooting.

12 Q The shooting that took place at Justine Carneglia's
13 graduation party?

14 A Correct.

15 Q And to the best of your recollection, that's her high
16 school graduation?

17 A Yes.

18 Q Did the defendant care about who did the shooting?

19 A Yes, he cared who did the shooting.

20 Q Why?

21 A Because he wanted to prove his brother wrong.

22 Q What was his brother's position?

23 A His brother is my son didn't do it.

24 Q What was John Carneglia saying, if you're aware?

25 A My son didn't do it, he said it was Joey Scopo and that's

1 what happened.

2 Q Did the defendant do anything to get to the bottom of the
3 situation?

4 A He did.

5 Q Where was John Carneglia at the time that this took
6 place?

7 A Prison.

8 Q And you said the defendant did something to get to the
9 bottom of the situation; did he involve you in it?

10 A He did.

11 Q Tell the jury what happened from your perspective?

12 A He called me up and said come to the junkyard with a
13 camcorder and make sure it's charged.

14 THE COURT: Who is he?

15 THE WITNESS: I'm sorry, Charles Carneglia said meet
16 me by the junkyard and come with a camcorder and make sure
17 it's charged.

18 Q Did you meet the defendant at the junkyard and bring the
19 camera?

20 A I did.

21 Q What happened when you got there?

22 A He was drinking or doing something and he was sweating
23 and screaming and yelling and he said I'm going to get to the
24 bottom of this and he told three kids or two kids that if they
25 didn't come willingly and he had to go get them they'd have a

1 problem. So, I was standing by the junkyard with the
2 camcorder and a car pulled up and in the passenger seat and in
3 the back, I don't know if it was two or three, I can't
4 remember how many people but they had white trash bags over
5 their heads and their hands were tied but they could see
6 through. He didn't want them to know where they were going
7 but they were clear bags.

8 Q They were clear bags or they were white bags?

9 A They were white but you could see right through them.
10 Whoever covered them didn't cover them good, he didn't want
11 them to know where they were going.

12 Q And where were the bags?

13 A Over their heads.

14 Q You said their hands were tied?

15 A Correct.

16 Q Who was driving the car that pulled up?

17 A I'm not positive, I think Joey Panzarella or Frankie
18 Scatara (ph).

19 Q Who was Joey Panzarella?

20 A He was an associate with Charles Carneglia.

21 Q Showing you Government Exhibit 2u, do you recognize that
22 person?

23 A Yes.

24 Q Who is that?

25 A Joey Panzarella, Jr.

1 Q What's the highest position he attained in the Gambino
2 family?

3 A Associate.

4 Q Do you remember the names of any people who had bags over
5 their heads and their hands bound?

6 A Denny Cassara and Dave D'Arpino.

7 Q And this is the same Dave D'Arpino you testified was an
8 associate of John Alite's?

9 A That's correct.

10 Q Showing you Government Exhibit 2 quadruple B, who is
11 that?

12 A Dave D'Arpino.

13 MR. BURLINGAME: Move to admit Government Exhibit
14 2 quadruple B as in boy.

15 MR. NORRIS: It's in.

16 MR. BURLINGAME: Sorry, Judge, it's in.

17 THE COURT: Isn't that in already?

18 MR. BURLINGAME: Yes, sorry, Judge, it is in.

19 Q So, you testified either Joey Panzarella or Frankie
20 Scatara drove up and there were two or three individuals with
21 their hands bound and white bags over their heads?

22 A Correct.

23 Q What happened next?

24 A They got out of the car and he lined them up.

25 Q Who is he?

1 A Charles lined them up, you know, in one, two, three order
2 side-by-side and then he asked them who did the shooting and
3 they said we don't know who did the shooting. So, he sat them
4 down and he took their shoes and socks off each one of them
5 and he asked them again and then they said we don't know and
6 then he took a -- I can say this?

7 Q Yes.

8 A He took a turkey baster of acid and he dropped it on each
9 one of their foot and they were screaming and yelling and he
10 said, well, who did it now and they were, look, we don't know
11 and he dropped more acid on their feet and they were still
12 standing pretty strong saying they don't know who did it.

13 Q He continued to ask them?

14 A Continued to ask them.

15 Q How long did this take place, how long did this go on
16 where he was asking them who did the shooting and dropping
17 acid on their feet?

18 A Like five, ten minutes.

19 Q Did Cassara and D'Arpino appear to be in pain?

20 A Yes.

21 Q What were they doing?

22 A Saying ah, it hurt.

23 Q Screaming?

24 A Yes.

25 Q Did you see their feet?

1 A Yes.

2 Q Were the effects of the acid visible on their feet?

3 A It was.

4 Q How so?

5 A It was getting all red and bubbly and they kept rubbing
6 it to rub it off. As they were rubbing it, the skin was
7 coming off.

8 Q What were you doing while the defendant was putting acid
9 on D'Arpino and Cassara's feet?

10 A I was filming it.

11 Q Why were you filming it?

12 A He told me to.

13 Q Did the defendant take any steps to make them talk beyond
14 putting acid on their feet?

15 A He did.

16 Q What?

17 A He then pulled their pants down and told them to bend
18 over, I'm going to stick the turkey baster up your ass, and
19 with that they screamed and said, "Chris did it."

20 Q So he stopped?

21 A Yes.

22 Q What did he do after that?

23 A He put their feet in water and, you know, what could he
24 do.

25 Q What happened to the video that you made?

1 A I destroyed it.

2 Q Why?

3 A Because it was like an accident case waiting to happen,
4 kidnapping, burning, torturing, I didn't keep it.

5 Q Did you watch the video before you destroyed it?

6 A Yes, I watched it.

7 Q Did you watch it with anyone?

8 A I watched it with Charles.

9 Q What did he do while he was watching it?

10 A I don't know.

11 Q You don't remember?

12 A He wasn't sitting there with popcorn. I don't really
13 remember what he was doing.

14 Q Did he appear upset by it?

15 A No, he thought it was kind of funny. He showed it to
16 somebody else, I don't remember who was there at the time. He
17 did show it to somebody else.

18 Q Do you remember any meetings between the defendant and
19 Dave D'Arpino after this incident?

20 A Yes.

21 Q And Dave D'Arpino is the person who had the acid dropped
22 on his feet?

23 A He was.

24 Q One of the people?

25 A Yeah.

1 Q What happened at the meeting between the defendant and
2 Dave D'Arpino after the acid incident?

3 A We were, me and Charles were at Phillie's Bait and Tackle
4 Shop and Dave D'Arpino and Johnny Alite walked into Phillie's
5 Bait and Tackle and he said hello to us and Alite says, oh,
6 this kid don't look familiar, and me and Charles looked at
7 each other and said no. He said, oh, that's the kid you
8 dropped the acid on and so me and Charles were looking at each
9 other, you know, oh, you know, what could we say. He asked
10 him how his feet was and he showed him, it still had a hole in
11 it and it was all --

12 Q When you say it had a hole in it, could you see through
13 his foot?

14 A It was dented out, it was healing up, it was building
15 back up but it still had a hole in it.

16 Q The injury was still visible?

17 A Correct.

18 Q Now, did D'Arpino confront the defendant --

19 A No.

20 Q -- about putting the acid on his foot?

21 A No.

22 Q What was your understanding as to why?

23 MS. SHARKEY: Objection.

24 THE COURT: Sustained.

25 Q Have you ever seen Dave D'Arpino confront the defendant

1 about anything?

2 A No.

3 Q In your experience in organized crime, what happens to an
4 associate who confronts a made member of organized crime?

5 A It is a death wish.

6 (Continued on next page.)

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1 Q Now, you testified that the three individuals who the
2 defendant was dropping acid on their feet -- or two or three
3 individuals, you are not sure --

4 A Right.

5 Q -- eventually stated that Chris Carneglia was the one who
6 had done the shooting?

7 A Correct.

8 Q Do you know where Chris Carneglia was that night while
9 this was taking place?

10 A The Pink Floyd concert.

11 Q You know where that concert was?

12 A No. But that was another thing that Charles was mad
13 about. He said he doesn't care about those kids.

14 Q Do you know if he had to travel very far to get to the
15 Pink Floyd concert?

16 A I don't even know where it was, no.

17 Q A plane trip?

18 A No. It was probably local.

19 Q Had you ever participated in the robbery of a
20 Sears Department Store?

21 A I did.

22 Q Approximately when did that take place?

23 A September of 1995.

24 Q Was where was the Sears located?

25 A Vineland, New Jersey.

1 Q How did you first learn about the robbery?

2 A Johnny Alite came to New Jersey to borrow radios from me
3 and told me about it.

4 Q What do you mean by radios?

5 A Walkie-talkies.

6 Q Why did he want to borrow the radios from you?

7 A He wanted to use them for a score.

8 Q And what was the score?

9 A He had an inside tip of the Sears Department Store that
10 they had a safe with \$300,000 in it.

11 Q Where were you when you heard from Alite that he wanted
12 to borrow the radios?

13 A I was in Cape May, New Jersey.

14 Q What was in Cape May, New Jersey?

15 A A townhouse that my mother-in-law owned.

16 Q Now, did there come a point in time you met with Alite
17 about the robbery?

18 A Yes. He came there.

19 Q Where is that?

20 A He came to Cape May, New Jersey.

21 Q Your mother-in-law's house?

22 A Correct.

23 Q Who was there the day that you met with Alite about the
24 robbery in Cape May, New Jersey?

25 A Kevin Bonner, Steven Catalano, and Johnny Alite came.

1 And Johnny had his two kids with him, a boy and a girl.

2 Q Did you talk with -- about the robbery after they
3 arrived?

4 A Yes.

5 Q Where did you talk?

6 A Outside by the pool, which is off the water.

7 Q What did Alite tell you?

8 A He -- he wanted to borrow the radios, and he had to
9 score.

10 Q Did you ask to participate?

11 A Yes. I wanted to come.

12 Q Why?

13 A Because it sounded like an easy thing, and I figured I
14 could make some money.

15 Q Did you shoot any video that day?

16 A I did.

17 Q Now, you said there was an inside tip.

18 At the time did you know what the inside tip was?

19 A At the time I did not know what the tip was.

20 Q Did or did not?

21 A Did not.

22 Q Did you later find out what the inside tip was?

23 A Yes.

24 Q How did you find out?

25 A I sat through trial in Florida and found out it was

1 Steven Catalano's father.

2 Q You were tried on this robbery?

3 A I was.

4 Q Where were you tried.

5 A In the middle district of Tampa, Florida.

6 Q That is the federal court in Tampa, Florida?

7 A It is.

8 Q Were you convicted of this robbery?

9 A I was.

10 Q Who were the cooperating witnesses who testified against
11 you?

12 A Kevin Bonner and Michael Long.

13 Q You heard their testimony?

14 A I heard it.

15 Q After the meeting in Cape May to discuss the robbery,
16 were you included in the plan to rob the Sears?

17 A Yes.

18 Q What happened next after the meeting in Cape May?

19 A I ended up at Johnny Alite's house. I just don't
20 remember if I went at night, after he left, or if I went in
21 the morning, but I ended up at Johnny Alite's house. Not the
22 one in Cherry Hill. He had another house somewhere else,
23 Voorhees or something, and we met at that house.

24 Q When you say "we," who is "we"?

25 A Me, Johnny Alite, Kevin Bonner, Steven Catalano, and

1 Patsy Andriano. I don't know if Dave D'Arpino was there.

2 Q Was Michael Malone there?

3 A I thought I said that. Yes.

4 Q I will show you Government's Exhibit 2YYY.

5 A Kevin Bonner.

6 Q Well, did he have any position in the Gambino family?

7 A He was associated with Johnny Alite.

8 Q He was an associate of Johnny Alite?

9 A Yeah.

10 Q And Johnny Alite is a powerful Gambino family associate
11 who you said has his own crew?

12 A That is correct.

13 MR. BURLINGAME: If I didn't say it, that is
14 Government's Exhibit 2YYY.

15 THE COURT: You offering it?

16 MR. BURLINGAME: Yes, Judge.

17 THE COURT: Admitted.

18 (So marked as Government Exhibit 2YYY in evidence.)

19 BY MR. BURLINGAME:

20 Q I am showing you what has been marked as Government
21 Exhibit 2VVV?

22 Who is that?

23 A Patsy Adriano.

24 Q And what is Patsy Adriano -- does he have any affiliation
25 with organized crime?

1 A He was, again, an associate of Johnny Alite.

2 Q I am showing you Government Exhibit 2FFFF, as in Frank.

3 Who is that?

4 A Michael Malone.

5 Q And did he have any position in organized crime?

6 A He was associated to Johnny Alite.

7 Q Another member of Alite's crew?

8 A That is correct.

9 THE COURT: 2ZZZ is now in evidence.

10 MR. BURLINGAME: That was FFFF, as in Frank.

11 THE COURT: FFFF I have as Michael Malone.

12 MR. BURLINGAME: That is correct, Judge.

13 (So marked as Government Exhibit FFFF in evidence.)

14 BY MR. BURLINGAME:

15 Q Was there a plan for the robbery?

16 A Yes.

17 Q What was the plan?

18 A To go in as sheriffs from New Jersey and say you were
19 looking for counterfeit money and get them to the money room
20 of the Sears store.

21 Q Who was going to go in and pretend to be sheriffs?

22 A Kevin Bonner and Michael Malone.

23 Q What was your role in the robbery?

24 A I was going to man the radios and the scanners.

25 Q And, again, you testified earlier about a scanner.

1 Can you just remind the jury what that is.

2 A Wherever you go, you punch in the frequency wherever --
3 Jersey or New York to the police station.

4 Q It allows you to monitor police communications?

5 A That is correct.

6 Q Did you own a scanner?

7 A A couple of them.

8 Q And did you use scanners frequently?

9 A Yes.

10 Q Did the group go to the Sears after a meeting at Alite's
11 house?

12 A Yes.

13 Q How did everyone get there?

14 A Separate cars.

15 Q How many cars?

16 A Two or three.

17 Q Do you know who drove?

18 A Johnny Alite drove one car and Patsy Adriano drove his
19 black Lexus -- Acura.

20 Q Do you remember who you drove were?

21 A I drove with Johnny Alite, I believe.

22 Q Do you remember if anyone else was in your car?

23 A I can't remember.

24 Q Do you know who went with Patsy Adriano and his black
25 Acura?

1 A No.

2 Q What happened when you arrived at the Sears?

3 A They -- Kevin Bonner and Michael Malone went inside the
4 money room and pretended to be a New Jersey sheriff, and he
5 was saying he was checking for counterfeit money. And they
6 were inside the money room. And I got out of the car and
7 pretended that I was shopping, and I was standing in Sears
8 Department Store.

9 Q So you went into the Sears?

10 A Yes.

11 Q What did you pretend that you were shopping for?

12 A Camcorder batteries or something.

13 Q Who else was at the Sears?

14 A Johnny Alite and Patsy Adriano.

15 Q And what were they doing?

16 A I guess they were in the cars.

17 Q Did you have anything with you when you went into the
18 Sears?

19 A I think a walkie-talkie.

20 Q Did Alite and Adriano have anything with them in the
21 cars?

22 A Yes. They had radios also.

23 Q Did there come a point when you left the Sears?

24 A Yes.

25 Q When?

1 A Kevin Bonner and Michael Malone went running out, and I
2 just followed behind them.

3 Q Did they run out?

4 A Walked pretty quick.

5 Q Did you follow right behind them?

6 A Yes.

7 Q What happened after you left the Sears?

8 A We got in the cars, and we went to Johnny Alite's house.

9 Q Did you make it back to his house?

10 A Yes.

11 Q The same place where you met from before the robbery?

12 A Yes.

13 Q What did you find out when you got back to Alite's?

14 A I found out that they didn't rob \$300,000. They robbed
15 about 20-. And it didn't go as planned.

16 Q Why didn't it go as planned?

17 A Because the lady locked the safe. She testified at the
18 trial.

19 Q So you heard her testify about that?

20 A That is correct.

21 Q Did you also learn about it after the robbery, the people
22 discussed the robbery?

23 A They just said people panicked. They didn't go into
24 details of locking the safe.

25 Q Okay. So you learned about the locking the safe from

1 your trial and not from your participation in the robbery?

2 A That is correct.

3 Q How much money was stolen?

4 A 20,000.

5 Q Did you get a share of the money?

6 A I did.

7 Q How much?

8 A About 1500.

9 Q Who gave you the share?

10 A Johnny Alite.

11 Q Did he give you a share for anyone else?

12 A Yes.

13 Q For who?

14 A Charles Carneglia.

15 Q Did Alite tell you why he was giving you a cut for the
16 defendant if he wasn't there?

17 A He didn't tell me, but it didn't get that far, the
18 conversation.

19 Q What was your understanding as to why the defendant was
20 getting a cut?

21 MS. SHARKEY: Objection.

22 THE COURT: I will allow it.

23 THE WITNESS: Because John was having a problem and
24 he wanted to go around Charles -- to be connected to Charles.
25 Charles.

1 BY MR. BURLINGAME:

2 Q Was this the period -- you testified earlier that the
3 defendant was around Alite during a period after Alite had a
4 dispute with John Gotti, Jr.

5 Was this during that period?

6 A I think so. I am not exactly positive.

7 Q Do you know if the defendant knew about the robbery in
8 advance?

9 A I do not know.

10 Q Did you take the money for the defendant from Alite?

11 A We were arguing over who was going to take it to him, but
12 I didn't take it, no.

13 Q Why didn't you take it?

14 A Because I had to go back to New Jersey. I wasn't going
15 back to Queens, New York.

16 Q I'm sorry. When you say back to New Jersey, where do you
17 mean?

18 A Back to Cape May.

19 Q Do you know whether the defendant ever got any money from
20 that robbery?

21 A Yes.

22 Q How do you know?

23 A We met after I got back, and Johnny Alite was talking
24 about another score. And he gave me \$2500 from the Sears
25 store.

1 Q Do you remember the defendant got \$2,500?

2 A That is correct.

3 Q How much did you get?

4 A 15-.

5 Q He got more than you even though he didn't participate in
6 the actual robbery?

7 A That is the way it goes. Yes.

8 Q Did you also take part in the robbery of the
9 Papavero Funeral Home?

10 A I did.

11 Q Were you also tried for that robbery?

12 A I was.

13 Q Convicted?

14 A Guilty, yes.

15 Q Is that the same trial or a different trial from the
16 trial from the trial --

17 A It was a RICO with predicate acts. The same trial.

18 Q The same trial as the Sears robbery?

19 A That is correct.

20 Q And you said "a RICO."

21 What does that mean?

22 A That is being part of a crew of organized crime.
23 Racketeering influenced corruption something it stands for.

24 Q You were charged with racketeering?

25 A Yes.

1 Q So you were charged with racketeering, and the actual
2 robberies were two racketeering acts that you were charged
3 for?

4 A That is correct.

5 Q Where is the Papavero Funeral Home located?

6 A Grand Avenue in Ridgewood.

7 Q Where is Ridgewood?

8 A I am not sure. Queens, I guess. I think that is what
9 you call it.

10 Q When you say you guess --

11 A I forgot where it is. I know it is off of Grand Avenue,
12 Fresh Pond Road. I don't remember the address.

13 Q How did you first learn about this robbery?

14 A Johnny Alite came to me and Charles and said that he had
15 another good source or inside tip that the guy was a -- the
16 owner was a heroin dealer, and he had \$500,000 in his safe.

17 Q The owner of what?

18 A The Papavara Funeral Home.

19 Q Did he tell you what his inside tip was?

20 A It was in some relation to the actual owner. The
21 daughter-in-law or sister-in-law or some kind of in-law --
22 a father-in-law, you know, whatever when it's your
23 daughter-in-law.

24 Q Was it your understanding that the tip came from a man or
25 a woman?

1 A It was a woman, some kind of dancer, a topless dancer or
2 something. It was a long time ago.

3 Q Now, did the owner of the Papavero Funeral Home have any
4 mob connections that you were aware of?

5 A He did.

6 Q What was --

7 A His cousin was Skinny Dom, a captain in the Gambino
8 family.

9 Q I'll show you Government's Exhibit 2V, as in Victor.
10 Who is that?

11 A Dom Pizzonia.

12 Q He ever go higher than captain in the Gambino family that
13 you are aware of?

14 A No.

15 Q And what is his nickname?

16 A Skinny Dom.

17 Q Do you know if he had a social club?

18 A He did.

19 Q Do you know what the name of that social club was?

20 A No. But it was under the el of the train station in
21 Ozone Park.

22 Q Do you remember the street?

23 A Liberty Avenue.

24 Q Are you aware of whether or not Alite discussed the
25 robbery with the defendant?

1 A I was there when he talked about it, yes.

2 Q And what was that discussion? Tell me about that
3 discussion?

4 A He just explained what I just explained, the tip and who
5 was involved, whose cousin it was, which I thought was a bad
6 idea.

7 Q And what was your understanding as to why Alite was
8 discussing the robbery with the defendant?

9 A Because he wanted to hear what he wanted to hear; that it
10 was okay to do it.

11 Q So Alite was getting the defendant's permission?

12 A That is correct.

13 Q What did Alite and the defendant decide after discussing
14 the robbery?

15 A That they would try to get him the owner when it -- on a
16 Sunday or --

17 Q More generally, did they decide to rob the place?

18 A Yes.

19 Q And you know this because you witnessed the conversation?

20 A That is correct.

21 Q What did you think of the decision to go forward with the
22 robbery?

23 A I thought it was dangerous.

24 Q Why?

25 A Because if we got caught Skinny Dom would put us in a

1 funeral home.

2 Q What was the plan for the robbery?

3 A The plan was that I talk to the owner, tell him I was
4 burying my grandmother, and that my cousins would come the
5 following day to make arrangements. And the way we planned
6 it, I would talk to him on a Saturday and they would go on
7 Sunday because it was quiet and nobody was around on a Sunday.

8 Q Let me back up for a second.

9 You said you thought it was a bad idea to rob the
10 funeral home because it was connected with Skinny Dom.

11 Did you participate in the robbery anyway?

12 A Yes.

13 Q Why?

14 A Charles told me to.

15 Q Okay. Now, you testified that the plan was for you to
16 contact the owner of the funeral home?

17 A Correct.

18 Q What was the purpose of that?

19 A I went and seen him and told him that I had to bury my
20 grandmother and that my cousins would be by so I could get him
21 to go on a Sunday to be by himself.

22 Q What day did you visit him?

23 A I believe it was a Saturday.

24 Q And when did you say your cousins were visiting?

25 A The next day.

1 Q Where did you meet with him when you met with him on
2 Saturday?

3 A I went to the funeral home.

4 Q Were you successful in setting up the meeting for the
5 next day?

6 A Yes.

7 Q Why did you want to set up a meeting on a Sunday?

8 A So nobody would be around.

9 Q What happened the next day?

10 A The next day I called him from a phone and explained my
11 fake name and whatever name I gave him, and I said my cousins
12 are coming. He said, "Oh, good. I will meet you" -- I think
13 it was at 2:00. And we went over there.

14 Q Who is "we"?

15 A Kevin Bonner, Johnny Alite, Patsy Adriano, and Dave
16 D'Arpino and another kid. I don't know who he was. I
17 actually mixed him up with somebody else.

18 Q Did the guys pretending to be your cousins go into the
19 funeral home?

20 A Yes.

21 Q Who?

22 A Kevin Bonner and this other kid I don't know his name.
23 I seen -- I meant I knew his picture, but I didn't know his
24 name.

25 Q Did you remember who went in on your own or do you

1 remember that from the trial?

2 A I knew Kevin Bonner went in, but I mixed up the other
3 guy.

4 Q Who did you originally think had gone in?

5 A Michael Finnerty.

6 Q And then you learned at the trial that it was the other
7 guy?

8 A No. I didn't learn at the trial it was the other guy.
9 I was adamant that it was Michael Finnerty. And then later on
10 I was shown a picture of him and I realized who -- that he was
11 there.

12 Q And the other kid was the one who, indeed, went in and
13 pretended to be your cousin?

14 A That is correct.

15 Q What did you do while Kevin Bonner and this other guy
16 went into the funeral parlor?

17 A I sat in the car with the radios and the walkie-talkie.

18 Q Anyone else in the car with you?

19 A Johnny Alite.

20 Q Based on your independent recollection and not the trial,
21 did the defendant take part in the actual robbery that Sunday?

22 A I didn't remember him being there.

23 Q Was the robbery a success?

24 A It was not.

25 Q Why not?

1 A They kept having problems with making him open the safe,
2 and they were going back and forth on the radio. And then for
3 a while we lost -- we lost contact with the radio, and I ran
4 into the Papavero Funeral Home by the stairs and I looked
5 down, but I couldn't see or hear anything. And then they came
6 running out.

7 Q You ran in while the robbery was taking place?

8 A That's correct.

9 Q Why did you run in?

10 A Because we lost contact. I didn't go all the way down.
11 I just tried to hear what was -- I wasn't about to get shot
12 either.

13 Q And why did you leave there?

14 A Because they ran out.

15 Q When you went in, could you see anything?

16 A No. It was dark. I think it was dark.

17 Q You couldn't see Kevin Bonner and the other guy?

18 A No.

19 Q You couldn't see the owner of the funeral parlor?

20 A That's who I didn't want to see when I was peeking in
21 because if he sees me again, he would be able to ID me.

22 Q What happened after you have ran out?

23 A Kevin Bonner and this other kid -- I think his name was
24 Ray; I am not really sure of his name -- ran out.

25 Q And what happened next?

1 A We went to Claudia DiPippa's house and we talked --

2 Q Who is Claudia DiPippa again?

3 A Claudia DiPippa is the house where Charles got made.

4 That is Johnny Alite's girlfriend.

5 Q The house you talked about earlier?

6 A Correct.

7 Q And who was there at Claudia DiPippa's house after the
8 Papavero robbery?

9 A Charles, me, Johnny Alite, and a couple of other people.

10 Q Do you remember the couple of other people?

11 A Kevin Bonner, I guess, and the people from the robbery.

12 Q What did you discuss?

13 A Just what a disaster it was.

14 Q Why was it a disaster?

15 A Because they couldn't get the safe open. And the guy
16 gave him 4,000 out of his pocket, and he wouldn't open the
17 safe.

18 Q So all they were able to steal was money from the guy's
19 pocket?

20 A Yes. They used a knife. Oh, no. They had a gun. They
21 put the gun to him, and he said, "I don't know the safe." And
22 gave them 4,000 out of their pocket -- out of his pocket. He
23 wouldn't open the safe.

24 Q And who was the guy who gave them the money?

25 A Skinny Dom's cousin.

1 Q The owner of the funeral home?

2 A That's correct.

3 Q The guy that you met with the prior Saturday to set it
4 up --

5 A That is correct.

6 Q -- or the day before?

7 A That is correct.

8 Q Did the defendant drink alcohol?

9 A All of the time.

10 Q What was his drink of choice?

11 A Cutty Sark.

12 Q What kind of drink is that?

13 A Scotch.

14 Q Did he drink to the point of intoxication?

15 A Yes.

16 Q What did he call it?

17 A He called it sinking the ship.

18 Q Why?

19 A Because there are little ships on the bottle.

20 Q On what bottle?

21 A On the scotch bottle.

22 Q On the Cutty Sark bottle?

23 A Yes.

24 Q How frequently would the defendant drink?

25 A All of the time.

1 Q At what point in your life did the defendant start
2 drinking?

3 A Since I know him.

4 Q When were you 12 or 13?

5 A Correct.

6 Q What was the defendant like when he was drunk?

7 A Loud and obnoxious.

8 Q Did he ever talk about things when he was drunk that he
9 didn't normally talk about?

10 A Yes.

11 Q What sorts of things?

12 MS. SHARKEY: Objection.

13 THE COURT: I will allow it.

14 THE WITNESS: Disposing of bodies.

15 BY MR. BURLINGAME:

16 Q Now, you testified earlier that you knew the identity of
17 one of the people whose body the defendant disposed of.

18 Could you remind the jury who that was.

19 A Favara.

20 Q The first name?

21 A John.

22 Q And, again, who was John Favara?

23 A He was the guy that got into a traffic accident with
24 Frank Gotti, John Gotti's son.

25 Q Was Frank Gotti killed in that traffic accident?

1 A He was.

2 Q Did you have anything to do with that incident?

3 A I did.

4 Q What?

5 A I was riding the bike before he got killed.

6 Q How did you learn that the defendant disposed of Favara's
7 body?

8 A He told me over mini bike conversations.

9 Q Did the defendant tell you where the body came from?

10 A He did.

11 Q Where?

12 A Angelo Ruggiero gave it to him.

13 Q The same Angelo Ruggiero whose trial you tampered with?

14 A Correct. In the Hamptons.

15 Q And was present in the Hamptons?

16 A Yes.

17 Q Did the defendant say he had any problems disposing of
18 John Favara's body?

19 A He did.

20 Q What was -- what was the problem?

21 A It wasn't dissolving as quickly as they liked it to.

22 Q So it was taking too long?

23 A Correct.

24 Q Was he facing any criticism for this?

25 A The usual. You are a drunk; you are this; you are that.

1 Q Did the defendant finish disposing of the body?

2 A He did.

3 Q What did he do afterward?

4 A He took a piece of the body and threw it in Angelo's soup
5 dish.

6 Q What sort of piece?

7 A I don't know the kind of piece it was. It was bones.

8 Q Now, you said the defendant told you about this.

9 Did he tell you on more than one occasion?

10 A Yes.

11 Q How would the topic typically come up?

12 A People call him incompetent and stuff like that. And he
13 would say, "I am competent. I can take care of this. I can
14 go and meet Sally Ruggiero and make moves or drugs, whatever."
15 He was saying he was competent.

16 THE COURT: Now, I caution you again, ladies
17 and gentlemen, that the defendant is on trial for specific
18 charges, and you are here only to find whether he is guilty or
19 not of those specific charges. And I will explain to you.
20 Not to decide whether or not you like the defendant generally
21 or not. Is that clear? Or whether the defendant did or did
22 not do things that you disapprove of that are not charged. Is
23 that clear?

24 Some of this evidence and the evidence that the
25 witness is just describing comes in just to show associations

1 among various people and not to show that these acts, which
2 you may disapprove of, actually happened. Is that clear?
3 Unless they are charged.

4 Do you all understand that?

5 THE JURY: Yes.

6 THE COURT: And are there any of you who can't
7 follow my instructions on this?

8 You are not here to decide the character. You are
9 not here to decide any actions that you disapprove of
10 generally. Is that clear?

11 Any of you feel you cannot be able to follow that
12 charge? Raise your hand.

13 Does the defendant wish any further instruction on
14 this point?

15 MS. SHARKEY: No, Judge. Thank you.

16 MR. FARBER: No, Your Honor.

17 THE COURT: Proceed.

18 MR. BURLINGAME: Thank you, Your Honor.

19 THE COURT: And you will strike from your mind the
20 word "dissolve."

21 BY MR. BURLINGAME:

22 Q Did the defendant have a name to refer to the place where
23 he disposed of bodies?

24 A The body shop.

25 Q Without saying what you found, did you ever find anything

1 that the defendant used to dispose of bodies?

2 A Yes.

3 Q Where did you find it?

4 A In a basement of an abandoned house on the property of
5 Sound Avenue.

6 Q And, again, without mentioning what you found, tell the
7 jury the story of how you found it.

8 MS. SHARKEY: Objection.

9 THE COURT: I will allow that.

10 THE WITNESS: We were cleaning out the basement
11 because it was getting --

12 THE COURT: That is enough.

13 Whose basement was it?

14 THE WITNESS: It was an abandoned house on the
15 property.

16 THE COURT: When you say "we," who do you mean.

17 THE WITNESS: Me and Charles Carneglia.

18 THE COURT: That is enough.

19 Move to something else.

20 BY MR. BURLINGAME:

21 Q Did he ever tell you anything about the walls of his,
22 quote, body shop?

23 A He said that if the walls could -- had ears they would
24 have big problems.

25 Q What did you understand that to mean?

1 A That a lot of stuff went on.

2 Q Did the defendant ever talk to you about his victim's
3 jewelry?

4 A He did.

5 Q What did he say?

6 MS. SHARKEY: Objection.

7 THE COURT: I will allow that.

8 THE WITNESS: The story came up through Andrew
9 Curro, and Andrew Curro used to wear the victim's jewelry.
10 After the bodies, whatever happened to them, the jewelry would
11 go up on the wall and it was an omen because it never brought
12 the bodies any luck; so Andrew Curro would put it on and go
13 out with the people's jewelry. And he said that is why Andrew
14 had bad luck; he ended up with three life sentences. He said
15 the jewelry was bad luck.

16 MR. BURLINGAME: Judge, I am not sure if you want
17 to -- when you want to stop today. It is a good point now, or
18 do you want to continue for a while?

19 THE COURT: Does anybody want to stop? We have
20 plenty of time. Anybody want to stop? Nobody wants to stop.
21 Proceed.

22 MR. BURLINGAME: Thank you, Judge.
23
24
25

1 CONTINUED DIRECT EXAMINATION

2 BY MR. BURLINGAME:

3 Q Who's in the defendant's crew in the early 1980's?

4 A Peter Zucarro, Andrew Curro, Guidici, Joey Calvacante,
5 Sal Puma. A couple of other people that I can't remember.

6 Q What faction of the Gambino family was the defendant
7 associated with at that time?

8 A The John Gotti faction.

9 Q Was the defendant a made member of the Gambino family at
10 that time, in the early 1980's?

11 A He was not.

12 Q Who was he under?

13 A He was under John Carneglia or Andrew Curro.

14 Q You testified before about Nicky Corozzo and JoJo
15 Corozzo. In the late 70's, were the Corozzos in the same
16 faction of the Gambino family as the Gottis?

17 A They were in two different factions, two different groups
18 that didn't get along.

19 Q There was conflict between those two groups?

20 A Yes.

21 Q How do you know about that?

22 A Charles told me that they didn't like them.

23 Q Do you know what the conflict was about?

24 A I do not know.

25 Q You just testified about who the defendant was close to

1 during the early 1980's. Where would the defendant spend time
2 during that period?

3 A Hang out?

4 Q Yes.

5 A Lindenwood Diner.

6 Q Did the defendant pay to eat at the Lindenwood Diner?

7 A I didn't really notice. I don't think so.

8 Q Do you know if he went there frequently?

9 A He did.

10 Q How frequently?

11 A Everyday.

12 Q Did you ever hear of anyone getting shot for
13 disrespecting the Lindenwood Diner?

14 A I did.

15 Q Who?

16 A Carmine Agnello.

17 MS. SHARKEY: Objection.

18 THE COURT: Sustained. Strike it.

19 BY MR. BURLINGAME:

20 Q Who told you -- did you ever learn of a shooting at the
21 Lindenwood Diner?

22 A Yes.

23 Q Did you learn who was shot?

24 A Yes.

25 Q Who told you who was shot?

1 A Charles.

2 Q Who did the defendant tell you was shot at the Lindenwood
3 Diner?

4 MS. SHARKEY: Objection.

5 A Who he shot?

6 THE COURT: What is your basis for the objection?

7 MS. SHARKEY: I believe there was a prior ruling by
8 the Court on this.

9 THE COURT: That the defendant said something about
10 this?

11 MS. SHARKEY: Yes.

12 MR. BURLINGAME: Not that I'm aware of.

13 THE COURT: When did this event occur?

14 BY MR. BURLINGAME:

15 Q When did this event occur?

16 A Early 80's and late 70's.

17 THE COURT: When did the defendant tell you about
18 it?

19 THE WITNESS: He told me about the event in the 90's
20 when we were working in the junk yard.

21 THE COURT: I will allow it.

22 BY MR. BURLINGAME:

23 Q Who did the defendant tell you was shot for disrespecting
24 the Lindenwood Diner?

25 A He told me -- well, the story comes out as Carmine

1 Agnello's helping clean the junk yard up that John Carneglia
2 owns. And Charles says he felt bad that Carmine -- that he
3 beat Carmine up and shot him. And now, later on up the road,
4 he's helping him clean up the junk yard. So Charles had said
5 that he shot and ran over Carmine Agnello.

6 Q I'm showing you Government Exhibit 2-DD, as in David.
7 Who is that?

8 A Carmine Agnello.

9 Q Are you aware of any affiliation with organized crime?

10 A Yes.

11 Q What was it?

12 A He is a made man.

13 Q Which family?

14 A Gambino family.

15 Q Do you know the nickname for him?

16 A The Bull.

17 Q Did the defendant tell you why he shot Carmine Agnello?

18 MS. SHARKEY: Objection.

19 THE COURT: I'll allow it.

20 A He said that his little crew had a fight with Carmine and
21 he wrecked the Lindenwood Diner. Carmine wrecked the
22 Lindenwood Diner. So his crew was Peter, Joey Calvacante,
23 Guidici and those guys.

24 BY MR. BURLINGAME:

25 Q Did the defendant tell you what happened after he shot

1 Carmine Agnello?

2 A He hit him with a car and then shot him, and then they
3 got out and beat Carmine up and he went to the hospital. Then
4 Carmine's uncle came to the junk yard -- I mean to the
5 Lindenwood Diner asking that Charles don't send nobody to the
6 hospital to kill him. While he's talking to Charles, I think
7 his name was Chickie or something, Andrew Curro is biffing him
8 in the head as he's talking.

9 Q What does that mean to biff somebody on the head? You
10 mean slapping on the forehead?

11 A Yeah. You're talking and being annoying and cracking the
12 guy in the head.

13 Q What happened?

14 A Charles turned around and shot Andrew.

15 Q Andrew Curro?

16 A Correct.

17 Q This was his close associate?

18 A His close associate, yes.

19 Q Now, were you close with the defendant during the 1980s?

20 A I was not.

21 Q You testified that you became close with the defendant
22 after his brother was sent to prison in June 1989. Who were
23 the people he was closest to at that point?

24 A Before June of 1989?

25 Q No. After you started -- when you became close to him

1 after June of 1989?

2 A He would stay by the coffee shop, which was across the
3 street from the Bergen Hunt and Fish Club. He was close with
4 Bobby Borriello, Little Jackie, Tommy Sneakers, Pete and a
5 couple of other guys that were there.

6 Q Whose club was the Bergen Hunt and Fish Club?

7 A It was John Gotti's.

8 Q You said little Jackie. Who is that?

9 A Caval [sic], I think his name is. I don't know if I said
10 it right.

11 Q Caval?

12 A I'm not sure if I even said it right.

13 Q Who is Tommy Sneakers?

14 A Tommy Twitch, Tommy Sneakers, I don't know his last name.

15 Q And you said Pete. Who is Pete?

16 A Pete Gotti, John Gotti's brother.

17 Q And Bobby Borriello, that's the same Bobby Borriello that
18 participated in the Delgado-Rivera and DiBono murders?

19 A That is correct.

20 Q In addition to Pete Gotti, was the defendant close with
21 any other Gottis at that time?

22 A John, Jr. Gotti.

23 Q I will show you what's in evidence as Government Exhibit
24 2-E. Who is that?

25 A Little Jackie.

1 Q Jackie Cavallo, you remember his name?

2 A Correct.

3 That's Tommy Sneakers.

4 Q Hold on.

5 I'm showing you government Exhibit 2-B. Who is
6 that?

7 A Tommy Sneakers.

8 Q You're not sure what the real last name is?

9 A No.

10 Q I'm showing you government Exhibit 2-Q. Who is that?

11 A Pete Gotti, Senior.

12 Q Do you know a nickname for him?

13 A The Eye.

14 Q I'm showing you Government Exhibit 2-AAAA. Who is that?

15 A Andrew Curro.

16 Q This is the guy that the defendant shot that he was
17 biffing Carmine Agnello's uncle?

18 A Yes.

19 Q What was his position, again, in the family?

20 A Associate.

21 Q And the other people, what was Peter Gotti's highest
22 position that he held in the organization?

23 A Acting boss.

24 Q What was Tommy Sneakers' highest?

25 A Captain.

1 Q And Jackie Cavallo, what's the position he obtained, that
2 you're aware of?

3 A A made man.

4 Q You mentioned that at the time you first started to
5 become close to the defendant when you switched over to him in
6 June of '89, he was closer with Jackie Cavallo, Tommy
7 Sneakers, John Gotti, Jr., Pete Gotti and Bobby Borriello.

8 A Yes.

9 Q Out of that group, who were the defendant's oldest and
10 closest friends that you're aware of?

11 A Jackie and Tommy.

12 Q Jackie Cavallo and Tommy Sneakers?

13 A Yes.

14 Q What happened to the associates who were under John
15 Carneglia when he went to prison?

16 A They got transferred to Charles Carneglia.

17 Q And Charles was an associate at that point?

18 A He was.

19 Q So is this the brief period you were talking about where
20 he was an associate with a crew of his own?

21 A Correct.

22 Q Who in the Gambino family did the defendant answer to at
23 that time?

24 A When he was an associate?

25 Q Yes. Around June of 1989.

1 A Peter or John, Jr..

2 Q When you say Peter, who are you talking about?

3 A Peter Gotti, who was a captain at the time.

4 Q And was it typical for soldiers in the Gambino family to
5 give money to their superiors?

6 A Yes.

7 Q Were you aware of the defendant making regular payments
8 to Pete Gotti or John Gotti, Jr.?

9 A No.

10 Q Do you know if he had to kick up money he made from
11 illegal activity?

12 A I don't know that.

13 Q Was the defendant a good earner for the Gambino family?

14 A No.

15 Q What was your understanding of his primary value to the
16 Gambino family?

17 MS. SHARKEY: Objection.

18 THE COURT: Based upon your observations of the
19 defendant and the conversations with him.

20 A Body disposal and hit man.

21 BY MR. BURLINGAME:

22 Q Did the defendant know Gene Gotti, that you're aware of?

23 A Very well.

24 Q What was his relationship with Gene Gotti?

25 A It was good. He would go visit him.

1 Q Where would he visit him?

2 A McKean Federal Prison.

3 Q Did he tell you -- do you know if they discussed Gambino
4 family business on these visits?

5 A They did.

6 Q How do you know?

7 A He would tell me some of the conversations.

8 Q What are some of the conversations he told you about?

9 MS. SHARKEY: Objection.

10 THE COURT: What is the basis of the objection.

11 MS. SHARKEY: Foundation as to the year.

12 THE COURT: Try to fix the time of the conversation,
13 please.

14 BY MR. BURLINGAME:

15 Q When the defendant told you that he discussed Gambino
16 family business on visits with Gene Gotti, do you remember
17 what years those conversations took place?

18 A Yeah. Up from the late 90's up to 2001 when he -- well,
19 I didn't talk to him after 2000, but from '98 to 2000.

20 Q He told you that they discussed Gambino family business?

21 A It might have been even sooner. I would say from '97 up
22 to 2000. Yes, and he did tell me what they discussed.

23 Q Were there multiple visits?

24 A Yes. Sal Scala would go also.

25 Q What sort of business did he tell you that they

1 discussed?

2 A Gambino family business.

3 Q Anything in particular that you remember?

4 A At the time Junior was -- Ruggiero, Angelo's son, was
5 very close with Charles and he talked about proposing him to
6 be a made man.

7 Q Who was Angelo Ruggiero, Jr., at that time? Who was he?

8 A He was an associate.

9 Q Who did he report to?

10 A John, Jr., I would imagine, or his brother.

11 Q You're not sure?

12 A I'm not sure.

13 Q But you know his position was associate?

14 A Correct.

15 Q I'm showing you what's been marked as Government's
16 Exhibit 2-MMM, as in Mary. Who is that?

17 A Junior Ruggiero.

18 Q Do you know if he later became -- do you know what the
19 highest position he obtained in the Gambino family was?

20 A Yes. Made man.

21 Q Did you ever learn of a fight between the defendant and
22 Angelo Ruggiero, Jr.?

23 A Yes.

24 Q Did you learn about that fight both from the defendant
25 and Angelo Ruggiero, Jr.?

1 A Correct.

2 Q Approximately, what date did you learn about that fight?

3 A '99, 2000, when Junior Ruggiero came home from jail. I
4 don't know when he came home.

5 Q What did the defendant tell you about the fight?

6 A He told me he was looking for him because they were
7 partners in the junk yard and he said he robbed checks and --

8 Q When you say he said he robbed checks?

9 A Charles said that Junior robbed checks from the business.
10 They were partners in a business.

11 Q In the junk yard business?

12 A Yes.

13 Q Continue?

14 A And he said -- well, while Junior was away in jail,
15 Charles would send him \$500 a week to support his family while
16 in jail.

17 Q Where did he send the \$500 a week?

18 A To his wife, Junior Ruggiero's wife.

19 Q So what happened?

20 A He wanted -- you know, after he said that he robbed
21 checks, which we later found out he didn't, he said he wanted
22 all the money back that he gave to Junior Ruggiero's family to
23 support them. So it was like 20- or 30,000.

24 Q He who wanted the 20- or \$30,000 back from --

25 A Charles.

1 Q -- Junior Ruggiero was the defendant?

2 A Charles Carneglia, yes.

3 Q So what happened?

4 A He went after him a couple of times and couldn't catch
5 him. One time he was going to threaten --

6 THE COURT: Don't use the word "he." Use a name.
7 Start again.

8 THE WITNESS: Charles said he would try to catch him
9 a couple of times.

10 THE COURT: Charles said that Charles?

11 THE WITNESS: Charles said that he couldn't catch
12 Junior. He would chase him and couldn't catch him.

13 BY MR. BURLINGAME:

14 Q Did he ever make any threats to Junior?

15 A I went over to Junior's house because Charles told me he
16 was going to throw a propane through with his wife and kids in
17 the house if he didn't come and pay him the money.

18 Q Did Charles ever catch up to Junior Ruggiero?

19 A He did.

20 Q What happened?

21 A He squirted him with Mace in the face, put Ben Gay down
22 his pants and hit him with a stun gun or blackjack. I don't
23 remember what the third weapon was.

24 Q At this point, again, what was Junior Ruggiero's position
25 in the Gambino family?

1 A He was an associate.

2 Q Did the defendant tell you that other members of the
3 Gambino family -- are you aware that there was a dispute
4 following the defendant's assault of Angelo Ruggiero, Junior?

5 A I don't call it a dispute, but it was not -- they weren't
6 happy about what he did.

7 Q Who is they?

8 A The hierarchy of the Gambino family.

9 Q And you learned about this from the defendant?

10 A Yeah. Junior -- John, Jr., was in jail. He sent a
11 message that he didn't like it. Pete Gotti said, you know,
12 how do you do that to Angelo's -- you know, our friend
13 Angelo's son. He says how does Angelo think he can get away
14 with abusing me, meaning Charles.

15 Q What was Pete Gotti's position at the time?

16 A The boss.

17 Q What was John Gotti's position at the time?

18 A He was demoted to -- he was the acting boss, but he went
19 to jail so he was a captain.

20 Q Did the situation get resolved?

21 A Yeah. Angelo Ruggiero paid the money.

22 Q You have a subsequent conversation with Angelo Ruggiero,
23 Jr., about the incident?

24 A I had two conversations with him after.

25 Q During that conversation, did Angelo Ruggiero, Jr.,

1 inform you about a change in his position in the Gambino
2 family since you last saw him?

3 A He told -- yes, he did.

4 Q Did he inform you of that in connection with the prior
5 incident between him and the defendant?

6 A He did. I said to him, I heard you were talking to
7 Charles on the corner. And this is in 2006. And he said,
8 He's my brother now. I have no choice.

9 Q What did you understand that to mean, when Angelo
10 Ruggiero told you that Charles was his brother now?

11 A That he got -- that Junior Ruggiero got straightened out
12 and he had no say in the matter.

13 Q This happened when?

14 A 2006.

15 Q 2006 is when Angelo Ruggiero, Jr., told you that Charles
16 Carneglia was now his brother?

17 A Correct.

18 Q And your understanding was that meant they were both made
19 members of the Gambino family at the time?

20 A That's correct.

21 THE COURT: Would you try to fix the time and place
22 and who was present and the language that was used --

23 MR. BURLINGAME: Sure.

24 THE COURT: -- for the events, please.

25 MR. BURLINGAME: Sorry, Judge.

1 Q Where were you when that conversation took place with
2 Angelo Ruggiero, Jr.?

3 A I was going to the hardware store before -- the year
4 before I -- the same year as I was going to trial in October
5 of 2006. So it was the summer of 2006. I was going to go
6 into a hardware store and I seen him. But before I seen him,
7 someone else had told me that Charles and Junior --

8 MS. SHARKEY: Objection to what someone else said.

9 THE COURT: Strike that.

10 BY MS. BURLINGAME:

11 Q Where was this hardware store?

12 A Cross Bay Boulevard.

13 Q Do you remember what the cross street was?

14 A No. I mean, it was down the block from Ray O'Connor and
15 between Kentucky Fried Chicken.

16 Q Your best recollection is that is the Summer of 2006?

17 A Yes.

18 Q How can you place it as the summer of 2006?

19 A Because I was getting ready to go to trial. And I also
20 -- I'm pretty sure I notified my supervisor police officer of
21 the contact because I was talking to Junior and he said oh, I
22 got a lot of heat on me. I said gee, that was great.

23 Q Who said they had a lot of heat on them?

24 A Angelo Ruggiero said he had FBI or something following
25 him.

1 Q When you said that was great, were you being sarcastic?

2 A No, but I was going to a hardware store. And then, when
3 you're on supervised release and you have contacts with known
4 felons, you can get violated.

5 Q To your knowledge, was Angelo Ruggiero, Junior, a known
6 felon at that time?

7 A He was.

8 Q So you were upset that you were potentially going to be
9 spotted by the FBI talking with him?

10 A A picture -- I always notified anybody that I bumped
11 into, but at the time a picture says a 1,000 words. It would
12 be hard to explain.

13 Q You believed that you notified your probation officer
14 about it?

15 A Yes. I always did if I bumped into a guy or anybody.

16 MR. BURLINGAME: Judge, this would be another
17 logical place to stop.

18 THE COURT: Well, if you'd like to stop we can stop.
19 You've had a hard day, but it's not because of lack of time.
20 The jury is --

21 MR. BURLINGAME: We're just starting on a rather
22 large section. I don't think that we'll make it until 5:00.

23 THE COURT: If you'd like to stop, is there any
24 objection?

25 MR. FARBER: I'd like to stop, Judge.

1 THE COURT: We will stop.

2 You're coming in at 9:30, ladies and gentlemen.

3 Good night.

4 (Whereupon the jury leaves the courtroom at 4:35
5 p.m.)

6 THE COURT: The marshals will take charge of the
7 witness as is appropriate.

8 (Whereupon the witness leaves the courtroom.)

9 THE COURT: Are there any applications or motions?

10 MR. BURLINGAME: Judge, I apologize for the
11 dissolve. I instructed the witness a million times not to use
12 the word "acid" or refer to it anyway.

13 THE COURT: These are slips that really can't be
14 helped in a trial as complex as this, where witnesses are only
15 human and they're trying to retrieve old memories and describe
16 them as best they can.

17 MR. BURLINGAME: Thank you, Judge.

18 THE COURT: Thank you. Good night, everyone.

19 MR. BURLINGAME: Judge, one other application. I
20 was wondering if we can have until Friday to get the Court the
21 jury instructions?

22 THE COURT: Certainly.

23 MR. FARBER: Is that for the defense, as well, Your
24 Honor?

25 THE COURT: Certainly.

1 MR. FARBER: Thank you, your Honor.

2 MR. BURLINGAME: Good evening, Your Honor.

3 (Whereupon the matter was adjourned to February 18,
4 2009 at 9:00 a.m.)

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